

<p style="text-align: right;">Page 1</p> <p>UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NEW YORK</p> <p>----- X EDWARD CARTER, FRANK FIORILO,) KEVIN LAMM, JOSEPH NOFI, and) THOMAS SNYDER,)) Plaintiffs,)) -against-))) INCORPORATED VILLAGE OF OCEAN) BEACH; MAYOR JOSEPH C.) LOEFFLER, JR., individually) and in his Official capacity;) former mayor NATALIE K. ROGERS,) individually and in her) official capacity, OCEAN BEACH) POLICE DEPARTMENT; ACTING) DEPUTY POLICE CHIEF GEORGE B.) HESSE, individually and in his) official capacity; SUFFOLK) COUNTY; SUFFOLK COUNTY POLICE) DEPARTMENT OF CIVIL SERVICE;) and ALLISON SANCHEZ,) individually and in her) official capacity,)) Defendants.) ----- X</p> <p style="text-align: center;">***VOLUME I*** DEPOSITION OF TYREE BACON New York, New York February 12, 2009</p> <p>Reported by: Judi Johnson, RPR, CRR, CLR Job No.: 20819</p>	<p style="text-align: right;">Page 3</p> <p>1 TYREE BACON 2 APPEARANCES: 3 THOMPSON WIGDOR & GILLY, LLP 4 Attorneys for the Plaintiffs 5 85 Fifth Avenue 6 New York, New York 10003 7 8 BY: ANDREW S. GOODSTADT, ESQ. 9 10 MARKS, O'NEILL, O'BRIEN & COURTNEY, P.C. 11 Attorneys for GEORGE B. HESSE 12 530 Saw Mill Road 13 Elmsford, New York 10523 14 15 BY: KEVIN W. CONNOLLY, ESQ. 16 17 RIVKIN RADLER, LLP 18 19 Attorneys for INCORPORATED VILLAGE OF OCEAN BEACH, 20 JOSEPH LOEFFLER, NATALIE ROGERS AND OCEAN BEACH 21 POLICE DEPARTMENT 22 926 RexCorp Plaza 23 Uniondale, New York 11556-0926 24 25 BY: KENNETH A. NOVIKOFF, ESQ.</p>
<p style="text-align: right;">Page 2</p> <p>1 2 85 Fifth Avenue 3 New York, New York 4 5 February 12, 2009 6 10:00 A.M. 7 8 9 10 11 12 13 Deposition of TYREE BACON, held at the 14 offices of THOMPSON WIGDOR & GILLY, LLP, 85 15 Fifth Avenue, New York, New York, pursuant 16 to Notice, before Judi Johnson, a Registered 17 Professional Reporter, a Certified Realtime 18 Reporter, a Certified LiveNote Reporter and 19 Notary Public of the State of New York. 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 4</p> <p>1 TYREE BACON 2 3 4 BEE READY FISHBEIN HATTER & DONOVAN, LLP 5 6 Attorneys for SUFFOLK COUNTY 7 170 Old Country Road 8 Mineola, New York 11501 9 10 BY: KENNETH A. GRAY, ESQ. 11 12 13 ALSO PRESENT: 14 FRANK FIORILLO 15 KEVIN LAMM 16 THOMAS SNYDER 17 JOSEPH NOFI 18 EDWARD CARTER 19 JOSH LIPSON - LEGAL VIDEO SPECIALIST 20 21 22 23 24 25</p>

<p style="text-align: right;">Page 5</p> <p>1 TYREE BACON</p> <p>2 IT IS HEREBY STIPULATED AND AGREED by</p> <p>3 and between the attorneys for the respective</p> <p>4 parties herein, that filing and sealing and</p> <p>5 the same are hereby waived.</p> <p>6 IT IS FURTHER STIPULATED AND AGREED</p> <p>7 that all objections, except as to the form</p> <p>8 of the question, shall be reserved to the</p> <p>9 time of the trial.</p> <p>10 IT IS FURTHER STIPULATED AND AGREED</p> <p>11 that the within deposition may be sworn to</p> <p>12 and signed before any officer authorized to</p> <p>13 administer an oath, with the same force and</p> <p>14 effect as if signed and sworn to before the</p> <p>15 Court.</p> <p>16</p> <p>17 - oOo -</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 7</p> <p>1 TYREE BACON</p> <p>2 Gilly, and our firm represents the plaintiffs in</p> <p>3 this case, Frank Fiorillo, Ed Carter, Joe Nofi,</p> <p>4 Tom Snyder and Kevin Lamm, in connection with</p> <p>5 the case they brought against Ocean Beach and a</p> <p>6 bunch of other entities or people.</p> <p>7 Do you understand you're testifying 10:08:25AM</p> <p>8 under oath today?</p> <p>9 A Yes, I understand. 10:08:27AM</p> <p>10 Q And you've sworn to tell the truth. 10:08:28AM</p> <p>11 Do you understand that? 10:08:29AM</p> <p>12 A Yes, I do. 10:08:30AM</p> <p>13 Q And your failure to tell the truth 10:08:32AM</p> <p>14 could result in criminal penalties.</p> <p>15 Do you understand that? 10:08:34AM</p> <p>16 A Yes. 10:08:35AM</p> <p>17 Q Have you ever testified under oath 10:08:35AM</p> <p>18 before?</p> <p>19 A I have. 10:08:37AM</p> <p>20 Q How many times? 10:08:37AM</p> <p>21 A Probably about 20. 10:08:39AM</p> <p>22 Q How about outside the scope of your 10:08:45AM</p> <p>23 duties as a police officer, how many times have</p> <p>24 you testified under oath?</p> <p>25 A Four or five. 10:08:53AM</p>
<p style="text-align: right;">Page 6</p> <p>1 TYREE BACON</p> <p>2 TYREE BACON,</p> <p>3 Called as a witness herein, having</p> <p>4 first been duly sworn, was examined and</p> <p>5 testified as follows:</p> <p>6 BY THE REPORTER:</p> <p>7 Q Please state your name and address for</p> <p>8 the record.</p> <p>9 A Tyree Bacon, 54 47th Street, Islip,</p> <p>10 New York 11751.</p> <p>11 THE VIDEOGRAPHER: This is the start 10:07:31AM</p> <p>12 of Tape Number 1 of the videotaped</p> <p>13 deposition of Tyree Bacon in the matter of</p> <p>14 Carter, et al versus Incorporated Village of</p> <p>15 Ocean Beach, et al. Today's date is</p> <p>16 February 12th, 2009, at approximately</p> <p>17 10:08 a.m.</p> <p>18 Will the court reporter please swear 10:07:49AM</p> <p>19 in the witness.</p> <p>20 EXAMINATION 10:07:52AM</p> <p>21 BY MR. GOODSTADT: 10:08:00AM</p> <p>22 Q Good morning, Mr. Bacon. 10:08:02AM</p> <p>23 A Good morning. 10:08:03AM</p> <p>24 Q My name is Andrew Goodstadt. I'm an 10:08:04AM</p> <p>25 attorney at the law firm of Thompson, Wigdor &</p>	<p style="text-align: right;">Page 8</p> <p>1 TYREE BACON</p> <p>2 Q Okay. Why don't we start with the 10:08:54AM</p> <p>3 most recent one from today, going backwards.</p> <p>4 When was that?</p> <p>5 A Deposition sometime before Christmas 10:09:01AM</p> <p>6 regarding an aided case that I handled in Queens</p> <p>7 Supreme Court, probably about three years ago.</p> <p>8 Q And what were the allegations in that 10:09:14AM</p> <p>9 case?</p> <p>10 A Woman fell getting out of the jury 10:09:17AM</p> <p>11 box. There was poor lighting. She had a suit</p> <p>12 against the city, who owned the building, New</p> <p>13 York State courts, and the TV show, Law and</p> <p>14 Order, because they were filming in the building</p> <p>15 and there were problems with the lights going on</p> <p>16 and off.</p> <p>17 Q Were you a party to that action? 10:09:34AM</p> <p>18 A No, I was what they call an 10:09:36AM</p> <p>19 uninterested witness.</p> <p>20 Q And prior to that time, when did you 10:09:39AM</p> <p>21 testify under oath?</p> <p>22 A For a deposition when the Town of 10:09:46AM</p> <p>23 Islip was being sued for an arrest that was made</p> <p>24 by myself at MacArthur Airport.</p> <p>25 Q Just before we get to that one, in 10:10:00AM</p>

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<p>1 TYREE BACON</p> <p>2 your deposition before Christmas that you took</p> <p>3 in connection with the slip and fall --</p> <p>4 A Uh-huh. 10:10:08AM</p> <p>5 Q -- in the jury box, were you 10:10:08AM</p> <p>6 represented by counsel in that matter?</p> <p>7 A Yes. 10:10:11AM</p> <p>8 Q Who represented you? 10:10:12AM</p> <p>9 A Corporation counsel for City of New 10:10:13AM</p> <p>10 York.</p> <p>11 Q Now let's go back to the issue with 10:10:15AM</p> <p>12 respect to the Town of Islip.</p> <p>13 A Uh-huh. 10:10:19AM</p> <p>14 Q Who was the plaintiff in that case? 10:10:20AM</p> <p>15 A Maureen Walsh. 10:10:23AM</p> <p>16 Q When was that deposition? 10:10:26AM</p> <p>17 A 2000. 10:10:32AM</p> <p>18 Q 2000? 10:10:33AM</p> <p>19 A Yeah, somewhere in that area. 10:10:34AM</p> <p>20 Q And what was she alleging in that 10:10:35AM</p> <p>21 case?</p> <p>22 A Excessive force, unjustified arrest. 10:10:40AM</p> <p>23 Q And what was the actual arrest? 10:10:46AM</p> <p>24 A Resisting arrest. It was a summons 10:10:55AM</p> <p>25 that escalated on her part.</p>	<p>1 TYREE BACON</p> <p>2 claimed that I had beaten her.</p> <p>3 Q She was claiming that you had beaten 10:12:18AM</p> <p>4 her or you and other officers had beaten her?</p> <p>5 A Myself. 10:12:25AM</p> <p>6 Q What was your position at Long Island 10:12:26AM</p> <p>7 MacArthur Airport at the time of that arrest?</p> <p>8 A Airport security guard. 10:12:31AM</p> <p>9 Q So she claimed you were the only 10:12:33AM</p> <p>10 person that beat her?</p> <p>11 A Yes. 10:12:36AM</p> <p>12 Q What did she claim that you did to 10:12:36AM</p> <p>13 her?</p> <p>14 A I don't particularly remember all the 10:12:39AM</p> <p>15 details, but that I had grabbed her by the</p> <p>16 throat, thrown her on the desk, refused to let</p> <p>17 her use the restroom.</p> <p>18 Q Any other allegations? 10:12:55AM</p> <p>19 A That's what I remember. There may 10:12:56AM</p> <p>20 have been more. You've got the complaint.</p> <p>21 Q Right. 10:13:01AM</p> <p>22 A Please elaborate. 10:13:02AM</p> <p>23 MR. NOVIKOFF: Just answer the 10:13:04AM</p> <p>24 question.</p> <p>25</p>
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<p>1 TYREE BACON</p> <p>2 Q When was that? When was that -- 10:10:59AM</p> <p>3 A That was January of '99. 10:11:02AM</p> <p>4 Q Were you represented by counsel in 10:11:06AM</p> <p>5 connection with your deposition in that matter?</p> <p>6 A I was. 10:11:10AM</p> <p>7 Q Were you a party to that case? 10:11:10AM</p> <p>8 A I don't recall. The attorney who 10:11:12AM</p> <p>9 represented me at the time was Stuart Walsh. I</p> <p>10 don't recall which --</p> <p>11 Q Stuart Schwartz or Stuart Walsh? 10:11:30AM</p> <p>12 A Schwartz. 10:11:33AM</p> <p>13 Q From Oshman, Helfenstein & Matza? 10:11:33AM</p> <p>14 A I don't recall. 10:11:42AM</p> <p>15 Q That's who represented you in that 10:11:44AM</p> <p>16 case?</p> <p>17 A Yes. 10:11:46AM</p> <p>18 Q Did you pay for that representation or 10:11:46AM</p> <p>19 did the town pay for it?</p> <p>20 A I did not. 10:11:49AM</p> <p>21 Q And what were the allegations 10:11:51AM</p> <p>22 underlying the claim of excessive force?</p> <p>23 A Excessive force in general. That she 10:11:59AM</p> <p>24 shouldn't have been taken into custody. That</p> <p>25 she had been compliant, when she wasn't. She</p>	<p>1 TYREE BACON</p> <p>2 BY MR. GOODSTADT: 10:13:09AM</p> <p>3 Q And did that case go to trial? 10:13:10AM</p> <p>4 A No, it did not. 10:13:12AM</p> <p>5 Q How did that case resolve? 10:13:13AM</p> <p>6 MR. NOVIKOFF: Objection. 10:13:15AM</p> <p>7 A I believe -- 10:13:16AM</p> <p>8 MR. NOVIKOFF: Are you done? 10:13:18AM</p> <p>9 MR. GOODSTADT: Yes. 10:13:19AM</p> <p>10 BY MR. GOODSTADT: 10:13:20AM</p> <p>11 Q How was that case resolved? 10:13:20AM</p> <p>12 MR. NOVIKOFF: Objection. 10:13:22AM</p> <p>13 BY MR. GOODSTADT: 10:13:22AM</p> <p>14 Q You can answer. 10:13:22AM</p> <p>15 A Okay. I believe they settled. I'm 10:13:23AM</p> <p>16 not certain.</p> <p>17 Q What leads you to believe that they 10:13:25AM</p> <p>18 settled?</p> <p>19 A I never got called for trial. 10:13:27AM</p> <p>20 Q You were never told that it actually 10:13:34AM</p> <p>21 settled?</p> <p>22 A No. 10:13:36AM</p> <p>23 Q You were never told that it settled 10:13:39AM</p> <p>24 for \$130,000?</p> <p>25 A That sounds like something I may have 10:13:43AM</p>

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<p>1 TYREE BACON</p> <p>2 heard, but I don't recall specifically.</p> <p>3 Q Did you have to contribute any money 10:13:46AM</p> <p>4 toward that settlement?</p> <p>5 A No. 10:13:49AM</p> <p>6 Q Were you prosecuted for that conduct? 10:13:52AM</p> <p>7 A No, I was not. 10:13:55AM</p> <p>8 Q And there was no adjudication of her 10:14:01AM</p> <p>9 claim; it was settled before there was a trial.</p> <p>10 Is that your understanding?</p> <p>11 MR. NOVIKOFF: What was the question? 10:14:09AM</p> <p>12 BY MR. GOODSTADT: 10:14:10AM</p> <p>13 Q There was no adjudication of her 10:14:10AM</p> <p>14 claim; it was settled before trial. Is that</p> <p>15 your understanding?</p> <p>16 A Yes. 10:14:16AM</p> <p>17 Q Other than for that incident, have you 10:14:23AM</p> <p>18 ever -- has anyone ever alleged excessive force</p> <p>19 against you?</p> <p>20 A No. 10:14:29AM</p> <p>21 Q Prior to the Walsh case -- strike 10:14:31AM</p> <p>22 that.</p> <p>23 I see that another plaintiff in the 10:14:36AM</p> <p>24 case is David Walsh as the parent and natural</p> <p>25 guardian of William O. Walsh, an infant over the</p>	<p>1 TYREE BACON</p> <p>2 in that matter?</p> <p>3 A Yes. 10:15:44AM</p> <p>4 Q Did you have the powers of arrest as a 10:15:44AM</p> <p>5 security guard?</p> <p>6 A Excuse me? 10:15:48AM</p> <p>7 Q Did you have the powers of arrest as a 10:15:48AM</p> <p>8 security guard in --</p> <p>9 A Yes, we had peace officer powers at 10:15:52AM</p> <p>10 MacArthur Airport.</p> <p>11 Q And that includes the power to arrest? 10:15:56AM</p> <p>12 A Yes. 10:15:58AM</p> <p>13 Q Did you carry a firearm then? 10:16:00AM</p> <p>14 A I did. 10:16:02AM</p> <p>15 Q Was it your own personal firearm or 10:16:04AM</p> <p>16 was it one issued by the town?</p> <p>17 A It was my own personal issued firearm. 10:16:08AM</p> <p>18 Q Did you have a permit for that? 10:16:11AM</p> <p>19 A I did. 10:16:13AM</p> <p>20 Q What type of permit did you have? 10:16:13AM</p> <p>21 A Business permit. 10:16:15AM</p> <p>22 Q When did you get that business permit? 10:16:17AM</p> <p>23 A I don't recall. 10:16:18AM</p> <p>24 Q Has that permit expired? 10:16:21AM</p> <p>25 A Currently? 10:16:24AM</p>
Page 14	Page 16
<p>1 TYREE BACON</p> <p>2 age of 14.</p> <p>3 Were there any claims by a William O. 10:14:50AM</p> <p>4 Walsh in that case?</p> <p>5 A There -- I believe there were claims 10:14:54AM</p> <p>6 by him and his sister when I was attempting to</p> <p>7 arrest --</p> <p>8 MR. NOVIKOFF: No, just answer the 10:14:59AM</p> <p>9 question.</p> <p>10 A Yes. 10:15:01AM</p> <p>11 Q What were those claims by him and his 10:15:01AM</p> <p>12 sister?</p> <p>13 A That they got caught up in the 10:15:04AM</p> <p>14 incident. In fact, they were the ones who had</p> <p>15 jumped me while I was trying to take Maureen</p> <p>16 Walsh into custody.</p> <p>17 Q I'm asking you what their claims were. 10:15:15AM</p> <p>18 A I have no idea what their claims -- I 10:15:18AM</p> <p>19 don't recall what their claims were</p> <p>20 specifically. It was all the same case.</p> <p>21 Q Did either William Walsh or his sister 10:15:25AM</p> <p>22 claim that you struck either one of them?</p> <p>23 MR. NOVIKOFF: Objection. 10:15:32AM</p> <p>24 A I don't recall. 10:15:33AM</p> <p>25 Q Did you actually arrest Maureen Walsh 10:15:40AM</p>	<p>1 TYREE BACON</p> <p>2 Q Yes. 10:16:25AM</p> <p>3 A I don't have it. I carry on my now 10:16:27AM</p> <p>4 shield as a police officer.</p> <p>5 Q Are you currently employed by the 10:16:32AM</p> <p>6 Ocean Beach Police Department?</p> <p>7 A Yes. 10:16:36AM</p> <p>8 Q Are you a police officer in any other 10:16:37AM</p> <p>9 jurisdiction?</p> <p>10 A I am not. 10:16:40AM</p> <p>11 Q Do you consider yourself to be a real 10:16:41AM</p> <p>12 police officer in Ocean Beach?</p> <p>13 MR. NOVIKOFF: Objection. 10:16:44AM</p> <p>14 You can answer. 10:16:45AM</p> <p>15 Just so you know, unless I instruct 10:16:46AM</p> <p>16 you not to answer, even if I object, you</p> <p>17 have to answer the question.</p> <p>18 A Yes. I have statutory powers of 10:16:51AM</p> <p>19 arrest throughout New York State, the same as a</p> <p>20 New York State Trooper or a New York City police</p> <p>21 officer.</p> <p>22 Q And you believe your duties are just 10:16:58AM</p> <p>23 as important as a New York State Trooper or New</p> <p>24 York City police officer?</p> <p>25 A Yes, when working in my geographic 10:17:04AM</p>

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<p>1 TYREE BACON</p> <p>2 area of employment.</p> <p>3 Q What do you mean by that? 10:17:09AM</p> <p>4 A When I'm working for the Village of 10:17:10AM</p> <p>5 Ocean Beach, that's my geographic area of</p> <p>6 employment.</p> <p>7 Q And you have statutory authority to 10:17:15AM</p> <p>8 arrest outside of your geographic area of</p> <p>9 employment?</p> <p>10 A Yes, for felonies and misdemeanors. 10:17:22AM</p> <p>11 Q Do you have authority to issue 10:17:25AM</p> <p>12 summonses outside your geographic area of</p> <p>13 employment?</p> <p>14 A No, only within the geographic area of 10:17:30AM</p> <p>15 employment.</p> <p>16 Q Do you have the authority to pull over 10:17:33AM</p> <p>17 a car outside your geographic area of</p> <p>18 employment?</p> <p>19 A No, I do not. 10:17:38AM</p> <p>20 Q Okay. Now, prior to the Maureen Walsh 10:17:42AM</p> <p>21 deposition, what was the time before that that</p> <p>22 you testified under oath outside of your -- the</p> <p>23 scope of your duties as a police officer?</p> <p>24 MR. NOVIKOFF: I'm going to object 10:17:55AM</p> <p>25 only because -- are you referring to police</p>	<p>1 TYREE BACON</p> <p>2 to?</p> <p>3 A An automobile accident in Brooklyn. 10:18:39AM</p> <p>4 Q And were you the plaintiff or a 10:18:48AM</p> <p>5 defendant in that case?</p> <p>6 A Defendant. 10:18:50AM</p> <p>7 Q When was that? 10:18:51AM</p> <p>8 A 1986. 10:18:56AM</p> <p>9 Q Were you ever -- did you ever work at 10:19:02AM</p> <p>10 the -- well, strike that.</p> <p>11 Do you know who Ronald Horn is? 10:19:11AM</p> <p>12 A No idea. 10:19:13AM</p> <p>13 Q You don't recall being named in a 10:19:14AM</p> <p>14 lawsuit in 2001 -- well, strike that.</p> <p>15 As a court officer, do you have a 10:19:21AM</p> <p>16 shield?</p> <p>17 A Yes. 10:19:23AM</p> <p>18 Q What was your shield number? 10:19:24AM</p> <p>19 A Well, right now I'm a sergeant. It's 10:19:25AM</p> <p>20 477.</p> <p>21 Q How about prior to becoming a 10:19:29AM</p> <p>22 sergeant? In 2001, what was your shield number?</p> <p>23 A I was a senior court officer, and it 10:19:32AM</p> <p>24 was -- actually, I don't remember what my --</p> <p>25 Q Were you ever shield Number 6229? 10:19:40AM</p>
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<p>1 TYREE BACON</p> <p>2 officer as Ocean Beach? I don't know that</p> <p>3 he was an officer for any other</p> <p>4 jurisdiction?</p> <p>5 BY MR. GOODSTADT: 10:18:04AM</p> <p>6 Q I'm talking about outside your duties 10:18:04AM</p> <p>7 of testifying as an arresting officer in any</p> <p>8 jurisdiction.</p> <p>9 MR. NOVIKOFF: All right. 10:18:13AM</p> <p>10 A No, I think that may have been it. 10:18:14AM</p> <p>11 There were a couple of different depositions</p> <p>12 regarding the Maureen Walsh case..</p> <p>13 Q So you were deposed more than once in 10:18:19AM</p> <p>14 that case?</p> <p>15 A Yes. 10:18:22AM</p> <p>16 Q How many times were you deposed in 10:18:23AM</p> <p>17 that case?</p> <p>18 A I want to say two or three. I can't 10:18:25AM</p> <p>19 be certain.</p> <p>20 Q And other than for that case, have you 10:18:30AM</p> <p>21 ever been a party to a lawsuit?</p> <p>22 A Yes. 10:18:34AM</p> <p>23 Q How many times? 10:18:35AM</p> <p>24 A Once. 10:18:36AM</p> <p>25 Q What other lawsuit were you a party 10:18:36AM</p>	<p>1 TYREE BACON</p> <p>2 A Yes. 10:19:43AM</p> <p>3 Q Do you recall being sued by a Ronald 10:19:43AM</p> <p>4 Horn in or around 2001?</p> <p>5 A No. 10:19:48AM</p> <p>6 Q I believe you testified that you were 10:20:02AM</p> <p>7 never a party other than for the automobile</p> <p>8 accident in Brooklyn and Maureen Walsh; is that</p> <p>9 correct?</p> <p>10 MR. NOVIKOFF: Objection. He didn't 10:20:13AM</p> <p>11 testify that he was a party to Maureen</p> <p>12 Walsh. He said he didn't recall if he was</p> <p>13 or not, and you haven't done anything to</p> <p>14 refresh his recollection.</p> <p>15 MR. GOODSTADT: Okay. 10:20:24AM</p> <p>16 BY MR. GOODSTADT: 10:20:25AM</p> <p>17 Q So other than the automobile accident 10:20:26AM</p> <p>18 in Brooklyn that you know you were a party to</p> <p>19 and the Maureen Walsh case, which you may have</p> <p>20 been a party to, do you recall being a party to</p> <p>21 any other lawsuit?</p> <p>22 A No, I do not. 10:20:38AM</p> <p>23 Q Were you ever a party in a lawsuit for 10:20:40AM</p> <p>24 divorce?</p> <p>25 A Yes. 10:20:45AM</p>

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<p>1 TYREE BACON</p> <p>2 Q How many times? 10:20:46AM</p> <p>3 A Once. 10:20:47AM</p> <p>4 Q When was that? 10:20:47AM</p> <p>5 A 1996 -- no, no, I'm sorry. '98. 10:20:49AM</p> <p>6 Q Were you the plaintiff in that matter 10:20:56AM</p> <p>7 or the defendant?</p> <p>8 A Defendant. 10:20:59AM</p> <p>9 Q Who was the plaintiff? 10:21:01AM</p> <p>10 A Jennifer Monroe. 10:21:03AM</p> <p>11 Q And she sued you for divorce? 10:21:07AM</p> <p>12 A Yes. 10:21:09AM</p> <p>13 Q Who represented you in that matter? 10:21:11AM</p> <p>14 A Dennis. I don't remember his last 10:21:14AM</p> <p>15 name.</p> <p>16 Q Where was that lawsuit filed? 10:21:19AM</p> <p>17 A Suffolk County. 10:21:21AM</p> <p>18 Q Did that case go to a hearing? 10:21:28AM</p> <p>19 A No. 10:21:30AM</p> <p>20 Q It was settled? 10:21:31AM</p> <p>21 A Yes. 10:21:32AM</p> <p>22 Q When was it settled? 10:21:36AM</p> <p>23 MR. NOVIKOFF: Hold on one second. 10:21:37AM</p> <p>24 I just want to make sure that nothing 10:21:39AM</p> <p>25 part of the settlement was confidential or</p>	<p>1 TYREE BACON</p> <p>2 It's important -- and you're doing a 10:22:35AM</p> <p>3 good job so far -- that you give verbal answers</p> <p>4 as opposed to a nod of the head or --</p> <p>5 A Understood.. 10:22:40AM</p> <p>6 Q Understood? We're getting a record. 10:22:41AM</p> <p>7 Do you understand that? 10:22:43AM</p> <p>8 A Understood. 10:22:44AM</p> <p>9 Q And if you don't hear a question that 10:22:44AM</p> <p>10 I ask, just ask me to repeat it. I'll be happy</p> <p>11 to do so, okay?</p> <p>12 A Okay. 10:22:50AM</p> <p>13 Q If you don't understand a question I 10:22:50AM</p> <p>14 ask, ask me to rephrase it or repeat it. Again,</p> <p>15 I'll be happy to do so, okay?</p> <p>16 A Okay. 10:22:55AM</p> <p>17 Q If you don't understand or hear a word 10:22:56AM</p> <p>18 or phrase that I use, again, just let me know.</p> <p>19 I'll be happy to repeat it or rephrase it, okay?</p> <p>20 A Sure. 10:23:01AM</p> <p>21 Q Because if you answer the question, 10:23:01AM</p> <p>22 I'm going to assume that you both heard and</p> <p>23 understood the question and heard and understood</p> <p>24 every part of the question, okay?</p> <p>25 MR. NOVIKOFF: Objection. 10:23:09AM</p>
Page 22	Page 24
<p>1 TYREE BACON</p> <p>2 sealed or anything.</p> <p>3 THE WITNESS: No. 10:21:44AM</p> <p>4 MR. NOVIKOFF: It's all open? 10:21:44AM</p> <p>5 THE WITNESS: Yeah, it was an amicable 10:21:45AM</p> <p>6 divorce.</p> <p>7 MR. NOVIKOFF: Okay. Go ahead. 10:21:48AM</p> <p>8 A She filed for divorce and we, you 10:21:50AM</p> <p>9 know, agreed to separate and divorce.</p> <p>10 Q When was that settled? 10:21:53AM</p> <p>11 A In '99. I'm not even certain. 10:21:56AM</p> <p>12 Q Did you have to testify in connection 10:22:08AM</p> <p>13 with that matter?</p> <p>14 A No.. 10:22:11AM</p> <p>15 Q So other than what you've testified to 10:22:12AM</p> <p>16 thus far, do you recall testifying under oath in</p> <p>17 any other proceeding, other than for as your</p> <p>18 role as a police officer?</p> <p>19 MR. NOVIKOFF: Objection. 10:22:22AM</p> <p>20 You can answer.. 10:22:23AM</p> <p>21 A Not that I recall. 10:22:25AM</p> <p>22 Q I know you've been through it in the 10:22:28AM</p> <p>23 past, but I just want to go over some ground</p> <p>24 rules today just so everyone is on the same</p> <p>25 page.</p>	<p>1 TYREE BACON</p> <p>2 You can answer. 10:23:10AM</p> <p>3 A Okay. 10:23:11AM</p> <p>4 Q Did you ever sue the Town of Islip? 10:23:18AM</p> <p>5 A No. 10:23:21AM</p> <p>6 Q Just to go back to sort of the ground 10:23:26AM</p> <p>7 rules. It's important you let me finish my</p> <p>8 question before you finish, just as though I'm</p> <p>9 going to let you finish your answer before I ask</p> <p>10 the next question, again so we get a clear</p> <p>11 record.</p> <p>12 Is that okay? 10:23:38AM</p> <p>13 A Yes. You probably have to remind me 10:23:39AM</p> <p>14 of that from time to time.</p> <p>15 Q Okay. If at any point in time you 10:23:42AM</p> <p>16 feel like you need a break or you need a recess,</p> <p>17 just let me know. I'll be happy to accommodate</p> <p>18 that request, okay?</p> <p>19 A Sure. 10:23:49AM</p> <p>20 Q The only thing I ask is that if 10:23:50AM</p> <p>21 there's a question pending, that you answer the</p> <p>22 question, then we take the break, okay?</p> <p>23 A Yes. 10:23:54AM</p> <p>24 Q Are you presently taking any 10:23:56AM</p> <p>25 medications that would affect your ability to</p>

Page 25	Page 27
<p>1 TYREE BACON</p> <p>2 testify today?</p> <p>3 A No. 10:24:01AM</p> <p>4 Q Are you currently sick? 10:24:01AM</p> <p>5 A No. 10:24:03AM</p> <p>6 Q Are you under the care of a doctor for 10:24:03AM</p> <p>7 anything that would affect your ability to</p> <p>8 testify today?</p> <p>9 A No. 10:24:08AM</p> <p>10 Q Is there anything that you can think 10:24:08AM</p> <p>11 of that would affect your ability to testify</p> <p>12 today?</p> <p>13 A No. 10:24:13AM</p> <p>14 Q Have you ever used any illegal 10:24:13AM</p> <p>15 narcotics?</p> <p>16 A Yes. 10:24:17AM</p> <p>17 Q How many times? 10:24:18AM</p> <p>18 A Half dozen times. 10:24:21AM</p> <p>19 Q And what narcotics have you used? 10:24:22AM</p> <p>20 A Smoked marijuana back in high school. 10:24:25AM</p> <p>21 Q Anything else? 10:24:31AM</p> <p>22 A Tried cocaine once back in high school 10:24:32AM</p> <p>23 or shortly after high school.</p> <p>24 Q One time you tried it? 10:24:41AM</p> <p>25 A Yes. 10:24:43AM</p>	<p>1 TYREE BACON</p> <p>2 BY MR. GOODSTADT: 10:25:33AM</p> <p>3 Q Mr. Novikoff is sitting right next to 10:25:34AM</p> <p>4 you, correct?</p> <p>5 A Yes, he is. 10:25:37AM</p> <p>6 Q When did you first learn that the 10:25:38AM</p> <p>7 plaintiffs in this case were making allegations</p> <p>8 against Ocean Beach?</p> <p>9 MR. NOVIKOFF: Objection. And my only 10:25:42AM</p> <p>10 objection is allegations within the</p> <p>11 complaint or just allegations in general?</p> <p>12 That's my objection to form.</p> <p>13 BY MR. GOODSTADT: 10:25:51AM</p> <p>14 Q Allegations -- well, strike that. 10:25:52AM</p> <p>15 Have you ever read a copy of the 10:25:54AM</p> <p>16 Complaint?</p> <p>17 A I have not. 10:25:56AM</p> <p>18 Q Do you know what the plaintiffs in 10:25:57AM</p> <p>19 this case are alleging?</p> <p>20 A Yes. 10:26:00AM</p> <p>21 Q What's your understanding of what the 10:26:00AM</p> <p>22 plaintiffs in this case are alleging?</p> <p>23 A That it's a bunch of nonsense. 10:26:06AM</p> <p>24 MR. NOVIKOFF: No, that wasn't the 10:26:08AM</p> <p>25 question. Listen to the question.</p>
Page 26	Page 28
<p>1 TYREE BACON</p> <p>2 Q And have you used cocaine since then? 10:24:45AM</p> <p>3 A No. 10:24:48AM</p> <p>4 Q Have you smoked marijuana since then? 10:24:49AM</p> <p>5 A Nope. 10:24:51AM</p> <p>6 Q Have you used any other illegal drug 10:24:52AM</p> <p>7 since shortly after high school?</p> <p>8 A Nope. 10:24:56AM</p> <p>9 Q At the time that you used those 10:25:01AM</p> <p>10 narcotics, did you know they were illegal?</p> <p>11 A Yes. 10:25:05AM</p> <p>12 MR. NOVIKOFF: I guess that makes him 10:25:11AM</p> <p>13 like the President.</p> <p>14 THE WITNESS: Better than Clinton.. I 10:25:15AM</p> <p>15 did smoke.</p> <p>16 BY MR. GOODSTADT: 10:25:21AM</p> <p>17 Q Are you represented by an attorney in 10:25:22AM</p> <p>18 connection with this deposition?</p> <p>19 A I am. 10:25:25AM</p> <p>20 Q And who is that? 10:25:25AM</p> <p>21 A (Indicating). What was your name 10:25:27AM</p> <p>22 again? I'm sorry.</p> <p>23 MR. NOVIKOFF: Mr. Novikoff. 10:25:30AM</p> <p>24 THE WITNESS: Mr. Novikoff. 10:25:32AM</p> <p>25</p>	<p>1 TYREE BACON</p> <p>2 Do you want to repeat it? 10:26:10AM</p> <p>3 MR. GOODSTADT: Yeah. 10:26:10AM</p> <p>4 BY MR. GOODSTADT: 10:26:10AM</p> <p>5 Q What's your understanding of what the 10:26:10AM</p> <p>6 plaintiffs in this case are alleging?</p> <p>7 A My understanding is that they were not 10:26:14AM</p> <p>8 invited back. They're alleging that they were</p> <p>9 fired because they've witnessed misconduct. In</p> <p>10 my opinion, it's all nonsense. There's no basis</p> <p>11 in truth to any of this.</p> <p>12 Q What misconduct is your understanding 10:26:36AM</p> <p>13 that they claim they've witnessed?</p> <p>14 A Drinking, sex, excessive force. 10:26:41AM</p> <p>15 Q Anything else? 10:26:51AM</p> <p>16 A No. I think that about covers it. 10:26:53AM</p> <p>17 Q What excessive force is your 10:26:55AM</p> <p>18 understanding of what these plaintiffs claim</p> <p>19 that they witnessed?</p> <p>20 A I'm not sure. I wasn't there and I 10:27:01AM</p> <p>21 didn't read the complaint, so I'm not certain.</p> <p>22 Q So your understandings is that they 10:27:06AM</p> <p>23 claim they witnessed excessive force, but you</p> <p>24 have no idea to what excessive force they claim?</p> <p>25 A Exactly. 10:27:14AM</p>

<p style="text-align: right;">Page 29</p> <p>1 TYREE BACON</p> <p>2 Q What allegations of sex is it your 10:27:14AM</p> <p>3 understanding that the plaintiffs are claiming</p> <p>4 they witnessed in this case?</p> <p>5 A Once again, I'm not sure. 10:27:20AM</p> <p>6 Q So just generally, they just claimed 10:27:23AM</p> <p>7 they witnessed sex is your understanding?</p> <p>8 A Generally -- yeah, those three items 10:27:29AM</p> <p>9 were general complaints. I didn't read the</p> <p>10 complaint. I'm not certain of any specifics.</p> <p>11 Q And what's your understanding of what 10:27:38AM</p> <p>12 drinking the plaintiffs allege they witnessed in</p> <p>13 this case?</p> <p>14 A Once again, nothing specific. 10:27:44AM</p> <p>15 Q Do you know who they alleged to have 10:27:46AM</p> <p>16 witnessed drinking?</p> <p>17 A No, I don't. 10:27:49AM</p> <p>18 Q Do you know who they alleged they 10:27:49AM</p> <p>19 witnessed having sex?</p> <p>20 A No, I don't. 10:27:52AM</p> <p>21 Q Do you know who they alleged having to 10:27:53AM</p> <p>22 have witnessed exercising excessive force?</p> <p>23 A No, I don't. 10:27:58AM</p> <p>24 Q What's the basis of your understanding 10:28:00AM</p> <p>25 that that's what they're alleging?</p>	<p style="text-align: right;">Page 31</p> <p>1 TYREE BACON</p> <p>2 You can answer. 10:28:56AM</p> <p>3 A Okay. I got a phone call from 10:28:58AM</p> <p>4 Mr. Michael Welch saying he wanted to speak to</p> <p>5 me in regards to a complaint that was filed on</p> <p>6 behalf of five complainants. I came to his</p> <p>7 office. He went over my background --</p> <p>8 MR. NOVIKOFF: Don't go over. 10:29:12AM</p> <p>9 THE WITNESS: I'm sorry. 10:29:14AM</p> <p>10 MR. NOVIKOFF: And you met with 10:29:15AM</p> <p>11 Mr. Welch.</p> <p>12 THE WITNESS: I met with Mr. Welch. 10:29:18AM</p> <p>13 MR. NOVIKOFF: Leave it right there. 10:29:19AM</p> <p>14 BY MR. GOODSTADT: 10:29:20AM</p> <p>15 Q And you met with Mr. Welch in 10:29:21AM</p> <p>16 preparation for today's deposition?</p> <p>17 A Yes. 10:29:24AM</p> <p>18 Q When did you meet with Mr. Welch? 10:29:24AM</p> <p>19 A Two days ago. 10:29:26AM</p> <p>20 Q You met with him at his office? 10:29:28AM</p> <p>21 A Yes. 10:29:29AM</p> <p>22 Q How long was that meeting? 10:29:30AM</p> <p>23 A Two hours. 10:29:32AM</p> <p>24 Q Did you review any documents during 10:29:34AM</p> <p>25 that meeting?</p>
<p style="text-align: right;">Page 30</p> <p>1 TYREE BACON</p> <p>2 A From the complaint, from the rumor 10:28:05AM</p> <p>3 mill, from being here.</p> <p>4 Q So let's take those in order.. First 10:28:14AM</p> <p>5 one you said is you learned from the complaint.</p> <p>6 Didn't you testify you never saw a copy of the</p> <p>7 complaint?</p> <p>8 A Correct. You're telling me about the 10:28:27AM</p> <p>9 complaint. I met with a lawyer.</p> <p>10 Q I don't want to know any of the 10:28:32AM</p> <p>11 substance of the discussion that you may have</p> <p>12 had with your lawyer. But you said that the</p> <p>13 complaint is your basis, not your lawyer. You</p> <p>14 said the complaint.</p> <p>15 MR. NOVIKOFF: He said the complaint. 10:28:39AM</p> <p>16 He didn't specify the written complaint.</p> <p>17 MR. GOODSTADT: Okay. 10:28:43AM</p> <p>18 BY MR. GOODSTADT: 10:28:44AM</p> <p>19 Q So what complaint are you -- 10:28:44AM</p> <p>20 MR. NOVIKOFF: And then the witness 10:28:46AM</p> <p>21 did say he talked to his lawyers about that,</p> <p>22 and you appropriately told him that you</p> <p>23 don't want to go through anything he said</p> <p>24 with the lawyers. But I'm sorry.. That's my</p> <p>25 objection.</p>	<p style="text-align: right;">Page 32</p> <p>1 TYREE BACON</p> <p>2 A My personnel jacket. 10:29:36AM</p> <p>3 Q Did your personnel jacket refresh your 10:29:39AM</p> <p>4 recollection about any facts or issues?</p> <p>5 A He took the paperwork out and asked me 10:29:45AM</p> <p>6 questions based on, you know, the time frame I</p> <p>7 was employed by Ocean Beach --</p> <p>8 MR. NOVIKOFF: No, no. Don't go 10:29:52AM</p> <p>9 through any specific. You can answer that</p> <p>10 he took out some paper; he showed it to you.</p> <p>11 THE WITNESS: He didn't show me any 10:30:00AM</p> <p>12 documents. He took them out, and he asked</p> <p>13 questions based on those documents.</p> <p>14 MR. NOVIKOFF: Got it. Okay. 10:30:05AM</p> <p>15 BY MR. GOODSTADT: 10:30:05AM</p> <p>16 Q But before I asked you the question 10:30:05AM</p> <p>17 whether you reviewed any documents during that</p> <p>18 meeting with Mr. Welch. You said that you</p> <p>19 reviewed your personnel jacket; is that correct?</p> <p>20 MR. NOVIKOFF: Objection. 10:30:15AM</p> <p>21 You can answer. 10:30:15AM</p> <p>22 A Yes, he had it. He took piece of 10:30:16AM</p> <p>23 paper out by piece of paper, asked questions.</p> <p>24 Did I read anything in my personnel jacket? No,</p> <p>25 I did not.</p>

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1 TYREE BACON

2 Q Did you actually read any documents 10:30:24AM

3 during that meeting?

4 A No, I did not. 10:30:27AM

5 Q So I'll just go back to, again, you 10:30:29AM

6 said that -- when I asked you your basis of your

7 understanding of what was alleged, you said a

8 complaint. What complaint were you referring

9 to?

10 A The complaint that brought me here to 10:30:41AM

11 do this deposition.

12 Q But you never saw that complaint? 10:30:44AM

13 A I did not. 10:30:46AM

14 Q Now, you said the rumor mill was 10:30:47AM

15 another basis of your understanding of the

16 allegations, correct?

17 A Correct. 10:30:53AM

18 Q What did you mean by the rumor mill? 10:30:54AM

19 A Go to work, guys say that there's been 10:30:56AM

20 a complaint filed, nothing specific.

21 Q Who said there was a complaint filed? 10:31:05AM

22 A I can't remember anybody specific. 10:31:07AM

23 Q Just guys generally? 10:31:12AM

24 A In general, correct. 10:31:13AM

25 Q How many guys? 10:31:15AM

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1 TYREE BACON

2 A I don't know. Could've been two or 10:31:19AM

3 three. It could've been five or six. I don't

4 remember any specifics.

5 Q When did rumor mill start? 10:31:24AM

6 A Last summer. 10:31:27AM

7 Q So the summer of '07 or the summer of 10:31:29AM

8 '08?

9 A The summer of '08, upon my arrival 10:31:32AM

10 back from Iraq.

11 Q That's when you heard from the rumor 10:31:36AM

12 mill that there was --

13 A Yes. 10:31:39AM

14 Q -- a complaint that was filed? 10:31:39AM

15 A Yes. 10:31:40AM

16 Q What was stated about the complaint 10:31:42AM

17 that was filed?

18 A Nothing specific. That the five guys 10:31:45AM

19 who were not working for the village anymore

20 filed a complaint and they're suing the village.

21 Q Did anyone tell you what they were 10:31:55AM

22 suing the village for?

23 A No. 10:31:58AM

24 Q At that point in time, the summer of 10:31:59AM

25 '08, when you first heard of the rumor mill, did

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1 TYREE BACON

2 you know what the five plaintiffs were suing

3 over in this case?

4 A No. 10:32:06AM

5 Q When did you first learn what the five 10:32:07AM

6 -- or at least your understanding of what the

7 five plaintiffs in this case were suing over?

8 A That would've been Wednesday, when I 10:32:15AM

9 went with Mr. Welch.

10 Q So is it your testimony, sir, that 10:32:20AM

11 prior to this Wednesday, you didn't know any of

12 the allegations in the complaint?

13 MR. NOVIKOFF: Objection. 10:32:29AM

14 You can answer. 10:32:30AM

15 BY MR. GOODSTADT: 10:32:31AM

16 Q Is that your testimony? 10:32:32AM

17 A No, I didn't. 10:32:33AM

18 Q You never spoke to Richard Bosetti 10:32:33AM

19 about it?

20 A No. 10:32:36AM

21 Q How long did the rumor mill go on for? 10:32:39AM

22 A I'd hear at the beginning of the 10:32:45AM

23 shift. I'd go out on patrol, do my thing. I

24 may have heard it once or twice.

25 Q And once or twice during the summer -- 10:32:52AM

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1 TYREE BACON

2 during the season of '08?

3 A Yes. 10:32:56AM

4 Q Did you ever discuss your viewpoint, I 10:32:59AM

5 believe you called it -- I don't remember what

6 you called it, but something to the effect that

7 it was nonsense. Did you ever discuss that

8 viewpoint with anybody?

9 MR. NOVIKOFF: Objection. 10:33:11AM

10 A I'm sure I turned around and said it 10:33:12AM

11 was probably nonsense. I may have even used

12 words like bullshit.

13 Q Okay. At the time you heard the rumor 10:33:19AM

14 mill, you used the words like bullshit?

15 A I may have. 10:33:23AM

16 Q But how would you say it's bullshit if 10:33:24AM

17 you had no idea of what was being alleged at

18 that time, until last Wednesday?

19 MR. NOVIKOFF: Objection. 10:33:28AM

20 Argumentative.

21 You can answer. 10:33:29AM

22 A I don't know. 10:33:33AM

23 MR. NOVIKOFF: Also form. 10:33:33AM

24 But you can answer. 10:33:33AM

25 A I didn't know the whole facts behind 10:33:35AM

<p style="text-align: right;">Page 37</p> <p>1 TYREE BACON</p> <p>2 it. They were not invited back for a reason,</p> <p>3 and now they're making allegations to justify</p> <p>4 why they're not back; and from things that I've</p> <p>5 observed when working, I thought it was</p> <p>6 nonsense.</p> <p>7 Q But what did you think was nonsense if 10:33:49AM</p> <p>8 you didn't know what the allegations were until</p> <p>9 Wednesday?</p> <p>10 A I didn't -- 10:33:54AM</p> <p>11 MR. NOVIKOFF: Wait. You've got to 10:33:55AM</p> <p>12 let him finish.</p> <p>13 Andrew, did you finish the question? 10:33:57AM</p> <p>14 MR. GOODSTADT: I did. 10:33:59AM</p> <p>15 MR. NOVIKOFF: Do you want to just 10:34:00AM</p> <p>16 read it back so we're clear, please.</p> <p>17 (Whereupon, the requested portion was 10:34:02AM</p> <p>18 read back by the court reporter: But what</p> <p>19 did you think was nonsense if you didn't</p> <p>20 know what the allegations were until</p> <p>21 Wednesday?)</p> <p>22 MR. NOVIKOFF: Note my objection. 10:34:13AM</p> <p>23 A Generally speaking, because I didn't 10:34:14AM</p> <p>24 know any specifics of it, I generally thought it</p> <p>25 was nonsense..</p>	<p style="text-align: right;">Page 39</p> <p>1 TYREE BACON</p> <p>2 say.</p> <p>3 Q Well, you just told me about an 10:35:16AM</p> <p>4 assumption that you made.</p> <p>5 A Right. 10:35:19AM</p> <p>6 Q And I want to know what lead you to 10:35:19AM</p> <p>7 that assumption.</p> <p>8 MR. NOVIKOFF: And you is asked that 10:35:22AM</p> <p>9 when you said what was the basis of your</p> <p>10 assumption that was nonsense, and he</p> <p>11 answered that. I'm going to object.</p> <p>12 But you have to answer again. 10:35:29AM</p> <p>13 A Okay. 10:35:31AM</p> <p>14 MR. GOODSTADT: No, no, no. 10:35:32AM</p> <p>15 BY MR. GOODSTADT: 10:35:33AM</p> <p>16 Q The question, the basis of nonsense, 10:35:33AM</p> <p>17 is different than what was the basis of your</p> <p>18 assumption that they were alleging misconduct</p> <p>19 and they were fired for that misconduct.</p> <p>20 A That assumption -- 10:35:43AM</p> <p>21 MR. NOVIKOFF: And you've already 10:35:44AM</p> <p>22 asked that question also. Objection to</p> <p>23 form.</p> <p>24 But you -- please answer the question. 10:35:46AM</p> <p>25 A That assumption led me to believe it 10:35:46AM</p>
<p style="text-align: right;">Page 38</p> <p>1 TYREE BACON</p> <p>2 Q Okay. But you didn't know any of the 10:34:21AM</p> <p>3 specifics of it, but did you know any</p> <p>4 generalities of it, other than the fact there</p> <p>5 was a complaint filed?</p> <p>6 MR. NOVIKOFF: Objection. 10:34:31AM</p> <p>7 A I knew that they were alleging 10:34:32AM</p> <p>8 misconduct and that they weren't invited back</p> <p>9 because of that.</p> <p>10 Q And how did you know that they were 10:34:41AM</p> <p>11 alleging misconduct and that they weren't</p> <p>12 invited back because of that?</p> <p>13 A Just through the rumor mill. 10:34:48AM</p> <p>14 Q Okay. So the rumor mill was more than 10:34:50AM</p> <p>15 just the fact that a complaint was filed. It</p> <p>16 was that a complaint was filed alleging</p> <p>17 misconduct, and they weren't invited back</p> <p>18 because of it. Was that the rumor mill?</p> <p>19 MR. NOVIKOFF: Objection. 10:35:01AM</p> <p>20 A I think that was probably what I had 10:35:01AM</p> <p>21 assumed from it.</p> <p>22 Q What was the basis of that assumption? 10:35:04AM</p> <p>23 A We're going in circles here. You've 10:35:07AM</p> <p>24 asked questions, I've answered them.. You know,</p> <p>25 I don't understand what else you'd like me to</p>	<p style="text-align: right;">Page 40</p> <p>1 TYREE BACON</p> <p>2 was nonsense.</p> <p>3 Q I'm not asking how you reached the 10:35:51AM</p> <p>4 assumption that it was nonsense. I'm asking how</p> <p>5 you reached the assumption that they were</p> <p>6 alleging misconduct and they were fired because</p> <p>7 of that.</p> <p>8 A Through the rumor mill. 10:36:01AM</p> <p>9 Q So you heard that's what they were 10:36:02AM</p> <p>10 alleging?</p> <p>11 MR.. NOVIKOFF: Objection. 10:36:04AM</p> <p>12 A Through the rumor mill, yes. 10:36:05AM</p> <p>13 Q And who alerted you to the fact that 10:36:07AM</p> <p>14 they were alleging misconduct and that they were</p> <p>15 fired because of that?</p> <p>16 A Once again, through the rumor mill. 10:36:14AM</p> <p>17 Nobody specific.</p> <p>18 Q The rumor mill at the Ocean Beach 10:36:17AM</p> <p>19 Police Department?</p> <p>20 A Yes. 10:36:20AM</p> <p>21 Q Was there anyone outside of the Ocean 10:36:20AM</p> <p>22 Beach Police Department that was part of the</p> <p>23 rumor mill?</p> <p>24 A Not that I recall. 10:36:25AM</p> <p>25 Q Then you testified that the third 10:36:27AM</p>

<p style="text-align: right;">Page 41</p> <p>1 TYREE BACON</p> <p>2 basis of your knowledge that those allegations</p> <p>3 of drinking, sex and excessive force in this</p> <p>4 case was being here. What did you mean by that?</p> <p>5 MR. NOVIKOFF: Objection. 10:36:39AM</p> <p>6 You can answer. 10:36:41AM</p> <p>7 A That's what I was informed by 10:36:42AM</p> <p>8 Mr. Welch, was the general content of the</p> <p>9 allegations that were made by them.</p> <p>10 Q Okay. So it was nothing you 10:36:50AM</p> <p>11 learned -- nothing you learned being here; it's</p> <p>12 something that you learned prior to being here?</p> <p>13 A Yes. 10:36:55AM</p> <p>14 MR. NOVIKOFF: I just have to caution 10:36:57AM</p> <p>15 you. You can speak about meeting with</p> <p>16 Mr. Welch, meeting with me. You can speak</p> <p>17 about how long the meetings went on. You</p> <p>18 can speak about what documents you needed to</p> <p>19 review to refresh your recollection, if any.</p> <p>20 But you can't really talk about what</p> <p>21 Mr. Welch said to you and what you said to</p> <p>22 Mr. Welch.</p> <p>23 BY MR. GOODSTADT: 10:37:28AM</p> <p>24 Q Have you ever spoken with George Hesse 10:37:31AM</p> <p>25 about any allegations in this lawsuit?</p>	<p style="text-align: right;">Page 43</p> <p>1 TYREE BACON</p> <p>2 that it was bullshit, have you spoken with any</p> <p>3 other current or former employees at Ocean Beach</p> <p>4 about the allegations in this lawsuit?</p> <p>5 MR. NOVIKOFF: Motion -- I'm sorry. 10:38:18AM</p> <p>6 Objection to form.</p> <p>7 You can answer the question. 10:38:21AM</p> <p>8 A No, I have not. 10:38:22AM</p> <p>9 Q Have you ever spoken to any of the 10:38:24AM</p> <p>10 individuals that I just listed about the fact</p> <p>11 that a lawsuit had been filed?</p> <p>12 A No, I have not. 10:38:30AM</p> <p>13 Q And other than for Mr. Welch, have you 10:38:35AM</p> <p>14 spoken with anybody else in this world about</p> <p>15 either the fact that a lawsuit had been filed or</p> <p>16 any allegations in the lawsuit?</p> <p>17 A My wife. 10:38:46AM</p> <p>18 Q Other than for your wife and 10:38:47AM</p> <p>19 Mr. Welch, have you spoken to anybody else about</p> <p>20 the fact that there's a lawsuit brought or any</p> <p>21 allegations in the lawsuit?</p> <p>22 A My attorney (indicating). 10:38:55AM</p> <p>23 Q Anyone else? 10:38:58AM</p> <p>24 A Nope. 10:39:00AM</p> <p>25 Q When did you start working at Ocean 10:39:04AM</p>
<p style="text-align: right;">Page 42</p> <p>1 TYREE BACON</p> <p>2 A No, I have not. 10:37:35AM</p> <p>3 Q Have you ever spoken to Mayor Loeffler 10:37:37AM</p> <p>4 about any allegations in this lawsuit?</p> <p>5 A No, I have not. 10:37:41AM</p> <p>6 Q Have you ever spoken to Gary Bosetti 10:37:42AM</p> <p>7 about any allegations in this lawsuit?</p> <p>8 A No, I have not. 10:37:47AM</p> <p>9 Q Have you ever spoken to Richard 10:37:47AM</p> <p>10 Bosetti about any allegations in this lawsuit?</p> <p>11 A No, I have not. 10:37:49AM</p> <p>12 Q Have you have spoken to Natalie Rogers 10:37:50AM</p> <p>13 about any allegations in this lawsuit?</p> <p>14 A No, I have not. 10:37:55AM</p> <p>15 Q Have you ever spoken to Patrick Cherry 10:37:56AM</p> <p>16 about any allegations in this lawsuit?</p> <p>17 A No, I have not. 10:37:58AM</p> <p>18 Q Have you spoken with Mary Ann Minerva 10:37:58AM</p> <p>19 about any of the allegations in this lawsuit?</p> <p>20 A No. 10:38:00AM</p> <p>21 Q Have you spoken with any of the 10:38:00AM</p> <p>22 plaintiffs about the allegations in this</p> <p>23 lawsuit?</p> <p>24 A No. 10:38:04AM</p> <p>25 Q And other than for your assumption 10:38:05AM</p>	<p style="text-align: right;">Page 44</p> <p>1 TYREE BACON</p> <p>2 Beach as a police officer?</p> <p>3 A Summer of 1990. 10:39:11AM</p> <p>4 Q Did you ever drink while on duty at 10:39:17AM</p> <p>5 Ocean Beach?</p> <p>6 A Not on duty. 10:39:20AM</p> <p>7 Q Did you ever drink during your tour? 10:39:28AM</p> <p>8 A Actually, let me correct that. Yes, 10:39:30AM</p> <p>9 on duty.</p> <p>10 Q How many times did you drink on duty? 10:39:34AM</p> <p>11 A Once. 10:39:36AM</p> <p>12 Q When was that? 10:39:36AM</p> <p>13 A Prior to the defendants here being 10:39:42AM</p> <p>14 terminated or let go or not invited back.</p> <p>15 Q And how long prior to that? 10:39:51AM</p> <p>16 A Probably the summer of '99. 10:39:59AM</p> <p>17 Q And were you in uniform at the time? 10:40:07AM</p> <p>18 A I was. 10:40:08AM</p> <p>19 Q And where were you drinking? 10:40:09AM</p> <p>20 A In the police station. 10:40:11AM</p> <p>21 Q What were you drinking? 10:40:15AM</p> <p>22 A It was a rum and Coke. 10:40:17AM</p> <p>23 Q Why were you drinking on duty in 10:40:23AM</p> <p>24 uniform?</p> <p>25 A It was towards the end of the shift, 10:40:27AM</p>

<p style="text-align: right;">Page 45</p> <p>1 TYREE BACON</p> <p>2 we had gotten a pizza, and Ed Carter went across</p> <p>3 the street to CJ's to get what I thought was a</p> <p>4 pitcher of Coke; and when I poured a glass, it</p> <p>5 turned out to be a pitcher of rum and Coke.</p> <p>6 Q So Ed Carter brought back a pitcher of 10:40:42AM</p> <p>7 rum and Coke --</p> <p>8 A Yes, he did. 10:40:46AM</p> <p>9 Q -- to the station? 10:40:46AM</p> <p>10 A Yes, he did. 10:40:47AM</p> <p>11 MR. NOVIKOFF: You've got to let him 10:40:47AM</p> <p>12 finish.</p> <p>13 THE WITNESS: I understand. 10:40:49AM</p> <p>14 BY MR. GOODSTADT: 10:40:50AM</p> <p>15 Q And at the time that he brought that 10:40:50AM</p> <p>16 back and you tasted it and realized that it was</p> <p>17 rum and Coke, did you continue to drink it?</p> <p>18 A No, I dumped it. 10:40:53AM</p> <p>19 Q So you only had one sip? 10:40:54AM</p> <p>20 A Correct. 10:40:56AM</p> <p>21 Q Have you ever witnessed any other 10:41:16AM</p> <p>22 police officers in Ocean Beach drinking while on</p> <p>23 duty?</p> <p>24 A No. 10:41:22AM</p> <p>25 Q Have you ever witnessed any Ocean 10:41:24AM</p>	<p style="text-align: right;">Page 47</p> <p>1 TYREE BACON</p> <p>2 appropriate.</p> <p>3 Q Do you know if there's any rules or 10:42:17AM</p> <p>4 policies against it at Ocean Beach?</p> <p>5 A I'm sure there are. 10:42:21AM</p> <p>6 Q So if you were to learn that an 10:42:23AM</p> <p>7 officer would eat lunch, have a beer at lunch</p> <p>8 and then go on duty thereafter, you'd consider</p> <p>9 that to be improper?</p> <p>10 A Depending on how much time. If the 10:42:37AM</p> <p>11 guy's working a 4 to 12 and he had it at lunch</p> <p>12 and he was fit for duty, no, I wouldn't see that</p> <p>13 as being improper.</p> <p>14 Q How about if somebody had a beer 10:42:45AM</p> <p>15 during their shift on the lunch break?</p> <p>16 A I would think that that would be 10:42:50AM</p> <p>17 improper.</p> <p>18 Q Even if it's only one beer, you think 10:42:54AM</p> <p>19 that's improper?</p> <p>20 A Yes. 10:42:58AM</p> <p>21 Q And why do you believe that's 10:42:58AM</p> <p>22 improper?</p> <p>23 A Because you're on duty. 10:43:01AM</p> <p>24 Q Do you know if there's any policy 10:43:04AM</p> <p>25 against drinking while on duty?</p>
<p style="text-align: right;">Page 46</p> <p>1 TYREE BACON</p> <p>2 Beach --</p> <p>3 A Let me correct that. 10:41:26AM</p> <p>4 That night, the other guys who were on 10:41:27AM</p> <p>5 shift also experienced the same thing.</p> <p>6 Q Who were the guys that were on shift? 10:41:33AM</p> <p>7 A I don't recall who was working that 10:41:35AM</p> <p>8 particular tour.</p> <p>9 Q Do you recall any of the people at all 10:41:37AM</p> <p>10 who were working that tour?</p> <p>11 A No, I don't. 10:41:40AM</p> <p>12 Q Was Ed Carter on duty at the time? 10:41:41AM</p> <p>13 A Yes, he was. 10:41:44AM</p> <p>14 Q Anyone else other than for you and Ed 10:41:45AM</p> <p>15 Carter?</p> <p>16 A It was in the summertime, it was in 10:41:48AM</p> <p>17 July, so there were probably six or seven other</p> <p>18 officers.</p> <p>19 Q Have you ever witnessed anybody drink 10:42:03AM</p> <p>20 before their shift?</p> <p>21 A No. 10:42:07AM</p> <p>22 Q Do you think it would be appropriate 10:42:10AM</p> <p>23 for an officer to have a beer before going on</p> <p>24 tour?</p> <p>25 A No, I don't think it would be 10:42:14AM</p>	<p style="text-align: right;">Page 48</p> <p>1 TYREE BACON</p> <p>2 A I'm sure there is. I can't cite it 10:43:08AM</p> <p>3 specifically.</p> <p>4 Q Did you ever have a drink in the 10:43:14AM</p> <p>5 barracks prior to going on duty?</p> <p>6 A No. 10:43:18AM</p> <p>7 Q Did you ever hear that -- 10:43:25AM</p> <p>8 MR. NOVIKOFF: Hold on one second. 10:43:27AM</p> <p>9 THE WITNESS: No, I'm done. I just 10:43:29AM</p> <p>10 wanted to make sure it wasn't anything</p> <p>11 pressing.</p> <p>12 BY MR. GOODSTADT: 10:43:34AM</p> <p>13 Q Did you ever hear of anybody 10:43:34AM</p> <p>14 complaining about you drinking while on duty?</p> <p>15 A No. 10:43:39AM</p> <p>16 Q Did you ever drink at a bar in Ocean 10:43:42AM</p> <p>17 Beach?</p> <p>18 A Yes. 10:43:46AM</p> <p>19 Q How many times? 10:43:48AM</p> <p>20 A A handful of times. 10:43:50AM</p> <p>21 Q How many is a handful? 10:43:52AM</p> <p>22 A Half a dozen, a dozen. 10:43:54AM</p> <p>23 Q Was that on days that you worked? 10:43:58AM</p> <p>24 A No. 10:44:01AM</p> <p>25 Q So it was on days where you didn't 10:44:05AM</p>

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<p>1 TYREE BACON</p> <p>2 have any tours?</p> <p>3 A Correct. 10:44:08AM</p> <p>4 Q So you came into Ocean Beach to go to 10:44:09AM</p> <p>5 the bars, it wasn't after a tour?</p> <p>6 A It may have -- 10:44:12AM</p> <p>7 MR. NOVIKOFF: Objection. 10:44:14AM</p> <p>8 You can answer. 10:44:14AM</p> <p>9 A It may have been after a tour or it 10:44:15AM</p> <p>10 may have been on my day off.</p> <p>11 Q How many times did you go out drinking 10:44:20AM</p> <p>12 after your tour in Ocean Beach?</p> <p>13 A Two or three times. 10:44:25AM</p> <p>14 Q Did you ever get drunk in the bars in 10:44:27AM</p> <p>15 Ocean Beach?</p> <p>16 A No. 10:44:31AM</p> <p>17 Q How many drinks does it take you to 10:44:31AM</p> <p>18 get drunk?</p> <p>19 A Me? Three. 10:44:34AM</p> <p>20 Q So you never had three drinks at a bar 10:44:36AM</p> <p>21 in Ocean Beach?</p> <p>22 A No. 10:44:40AM</p> <p>23 Q Would you consider it dangerous to 10:44:46AM</p> <p>24 have a beer during your shift and then carry a</p> <p>25 loaded firearm around?</p>	<p>1 TYREE BACON</p> <p>2 A I can't remember anything specific. 10:45:43AM</p> <p>3 Q Do you recall what year it was? 10:45:45AM</p> <p>4 A It would've been after '99. 10:45:48AM</p> <p>5 MR. NOVIKOFF: Just before your next 10:45:52AM</p> <p>6 question, regular stips?</p> <p>7 MR. GOODSTADT: Regular stips. 10:45:54AM</p> <p>8 A It was after '99. 10:45:58AM</p> <p>9 Q Do you recall what year after '99? 10:45:59AM</p> <p>10 A No. 10:46:01AM</p> <p>11 Q What makes you believe that it was 10:46:05AM</p> <p>12 after '99?</p> <p>13 A Because it was after I came back. 10:46:07AM</p> <p>14 George wasn't there when I was there the first</p> <p>15 time.</p> <p>16 Q Okay. Which bar or bars did you go to 10:46:12AM</p> <p>17 with Mr. Hesse?</p> <p>18 A Bacci Beach would've been one of them, 10:46:21AM</p> <p>19 CJ's would've been one, and McGuire's.</p> <p>20 Q Any other bars that you've been to 10:46:34AM</p> <p>21 with Mr.. Hesse in Ocean Beach?</p> <p>22 A No. 10:46:37AM</p> <p>23 Q Have you ever been to a bar with 10:46:38AM</p> <p>24 Mr. Hesse outside of Ocean Beach?</p> <p>25 A Yes. 10:46:41AM</p>
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<p>1 TYREE BACON</p> <p>2 MR. NOVIKOFF: Objection. 10:44:52AM</p> <p>3 You can answer. 10:44:53AM</p> <p>4 A Yes. 10:44:54AM</p> <p>5 Q Did you ever have to be relieved from 10:45:03AM</p> <p>6 your tour in a bar?</p> <p>7 A No. 10:45:07AM</p> <p>8 Q Did you ever go to a bar in Ocean 10:45:13AM</p> <p>9 Beach with either of the Bosetti brothers?</p> <p>10 A No. 10:45:18AM</p> <p>11 Q How about with Arnold Hardman? 10:45:19AM</p> <p>12 A No. 10:45:22AM</p> <p>13 Q Walter Moeller? 10:45:23AM</p> <p>14 A Yes. 10:45:24AM</p> <p>15 Q How many times with Moeller? 10:45:24AM</p> <p>16 A Once or twice. 10:45:26AM</p> <p>17 Q How about Patrick Cherry? 10:45:28AM</p> <p>18 A None. 10:45:30AM</p> <p>19 Q George Hesse? 10:45:30AM</p> <p>20 A Yes. 10:45:31AM</p> <p>21 Q How many times? 10:45:32AM</p> <p>22 A Once or twice. 10:45:33AM</p> <p>23 Q When were the one or two times that 10:45:36AM</p> <p>24 you went to a bar in Ocean Beach with George</p> <p>25 Hesse?</p>	<p>1 TYREE BACON</p> <p>2 Q How many times? 10:46:42AM</p> <p>3 A Three or four. 10:46:47AM</p> <p>4 Q George Hesse a friend of yours? 10:46:49AM</p> <p>5 A Professionally, yes. 10:46:51AM</p> <p>6 Q Do you guys socialize outside of work 10:46:53AM</p> <p>7 ever?</p> <p>8 A The Christmas party, the end-of-summer 10:46:55AM</p> <p>9 party. That's pretty much it.</p> <p>10 Q Any other occasions that you 10:47:04AM</p> <p>11 socialized with Mr. Hesse outside of work?</p> <p>12 A No, that's pretty much it. 10:47:07AM</p> <p>13 Q How many times did you go to Bacci 10:47:10AM</p> <p>14 Beach with Mr. Hesse?</p> <p>15 A Once. 10:47:14AM</p> <p>16 Q Was that when you were off duty? 10:47:14AM</p> <p>17 A Yes. 10:47:18AM</p> <p>18 Q Was Mr. Hesse off duty? 10:47:18AM</p> <p>19 A I believe so. 10:47:20AM</p> <p>20 Q Who else was there? 10:47:21AM</p> <p>21 MR. NOVIKOFF: You mean in his group? 10:47:24AM</p> <p>22 BY MR. GOODSTADT: 10:47:25AM</p> <p>23 Q In your group. 10:47:25AM</p> <p>24 A Paul Carola was there. 10:47:27AM</p> <p>25 Q Anyone else? 10:47:31AM</p>

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<p>1 TYREE BACON</p> <p>2 A That's all that I remember. 10:47:34AM</p> <p>3 Q Did you guys eat a meal there? 10:47:35AM</p> <p>4 A Yes. 10:47:37AM</p> <p>5 Q Did you have any drinks? 10:47:38AM</p> <p>6 A I think I had a beer. 10:47:40AM</p> <p>7 Q Do you know whether Hesse had any 10:47:42AM</p> <p>8 drinks?</p> <p>9 A I don't recall. 10:47:44AM</p> <p>10 Q Who paid for that meal? 10:47:44AM</p> <p>11 A We all paid for it. 10:47:46AM</p> <p>12 Q Individually? 10:47:47AM</p> <p>13 A Yes. 10:47:48AM</p> <p>14 Q When did you go to CJ's with 10:47:49AM</p> <p>15 Mr. Hesse?</p> <p>16 A Same thing, it was for a meal. 10:47:53AM</p> <p>17 Q When was it? 10:47:55AM</p> <p>18 A I don't remember specifically. 10:47:56AM</p> <p>19 Q You don't recall what year it was? 10:47:58AM</p> <p>20 A No. After '99. 10:48:00AM</p> <p>21 Q You don't recall what year between 10:48:04AM</p> <p>22 1999 and today it was?</p> <p>23 A Nothing specific. 10:48:08AM</p> <p>24 Q Was it closer to today or closer to 10:48:11AM</p> <p>25 1999?</p>	<p>1 TYREE BACON</p> <p>2 Q Who paid for that meal? 10:48:52AM</p> <p>3 A We divvied it up among the three of 10:48:55AM</p> <p>4 us.</p> <p>5 Q When did you go to McGuire's with 10:48:58AM</p> <p>6 Hesse?</p> <p>7 A Once again, after '99. I don't 10:49:02AM</p> <p>8 remember when specifically.</p> <p>9 Q Was it closer to '99 or closer to 10:49:12AM</p> <p>10 today?</p> <p>11 A Closer to '99. 10:49:14AM</p> <p>12 Q Who else was there with you? 10:49:16AM</p> <p>13 MR. NOVIKOFF: If anybody. 10:49:23AM</p> <p>14 A I don't remember. There was a crowd 10:49:25AM</p> <p>15 there.</p> <p>16 MR. GOODSTADT: You mean in his group? 10:49:29AM</p> <p>17 BY MR. GOODSTADT: 10:49:30AM</p> <p>18 Q I was going to say with you. 10:49:30AM</p> <p>19 A With us, nothing. 10:49:31AM</p> <p>20 Q So it was you and Hesse? 10:49:33AM</p> <p>21 A Me and George, yes. 10:49:35AM</p> <p>22 Q Were you off duty at the time? 10:49:36AM</p> <p>23 A Yes. 10:49:38AM</p> <p>24 Q Was Hesse off duty? 10:49:38AM</p> <p>25 A I don't know. 10:49:40AM</p>
Page 54	Page 56
<p>1 TYREE BACON</p> <p>2 A Closer to '99. 10:48:14AM</p> <p>3 Q Who else was at that meal at CJ's? 10:48:17AM</p> <p>4 A I think Walter Moeller was there for 10:48:20AM</p> <p>5 that.</p> <p>6 Q Anyone else? 10:48:24AM</p> <p>7 A Not that I remember. 10:48:25AM</p> <p>8 Q Did you have any drinks at that meal? 10:48:26AM</p> <p>9 A I think, once again, I had a beer with 10:48:28AM</p> <p>10 my burger.</p> <p>11 Q Do you know if Mr. Hesse had any 10:48:32AM</p> <p>12 drinks at that meal?</p> <p>13 A I don't recall. 10:48:35AM</p> <p>14 Q Were you on duty at the time? 10:48:36AM</p> <p>15 A No, I was not. 10:48:37AM</p> <p>16 Q Was Hesse on duty? 10:48:38AM</p> <p>17 A I don't know. 10:48:39AM</p> <p>18 Q Was Moeller on duty? 10:48:40AM</p> <p>19 A I don't know. 10:48:42AM</p> <p>20 Q Were you wearing a uniform? 10:48:42AM</p> <p>21 A No. None of the guys were in 10:48:44AM</p> <p>22 uniforms.</p> <p>23 Q You said none of the guys, referring 10:48:48AM</p> <p>24 to Hesse and Moeller and yourself?</p> <p>25 A Correct. 10:48:52AM</p>	<p>1 TYREE BACON</p> <p>2 Q Were either of you in uniforms? 10:49:42AM</p> <p>3 A I was not. 10:49:44AM</p> <p>4 Q Was he? 10:49:44AM</p> <p>5 A No, he wasn't. 10:49:46AM</p> <p>6 Q Did you have any alcohol at that 10:49:47AM</p> <p>7 meeting?</p> <p>8 A It wasn't a meeting. It was -- 10:49:49AM</p> <p>9 Q Would you go there to have a meal? 10:49:52AM</p> <p>10 Did you have a meal there that day?</p> <p>11 A No. That time we didn't have a meal, 10:49:55AM</p> <p>12 no.</p> <p>13 Q So that time you were there to drink? 10:49:58AM</p> <p>14 A Just to be social. 10:50:00AM</p> <p>15 Q Okay. Did you have any drinks that 10:50:01AM</p> <p>16 night?</p> <p>17 A Yes. 10:50:05AM</p> <p>18 Q What time were you at McGuire's? 10:50:06AM</p> <p>19 A It was after they were done with the 10:50:12AM</p> <p>20 restaurant, so I'm going to say 10 or 11:00.</p> <p>21 Q Do you recall what month it was? 10:50:18AM</p> <p>22 A It was in the off season, so it had to 10:50:22AM</p> <p>23 be after Labor Day.</p> <p>24 Q Did you have any alcohol? 10:50:30AM</p> <p>25 A Yes. 10:50:31AM</p>

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<p>1 TYREE BACON</p> <p>2 Q What did you drink that night? 10:50:32AM</p> <p>3 A I don't remember. 10:50:33AM</p> <p>4 Q How many drinks did you have? 10:50:34AM</p> <p>5 A Maybe one, two tops. 10:50:37AM</p> <p>6 Q Did Hesse have any alcohol that night? 10:50:38AM</p> <p>7 A I don't recall what he drank. 10:50:41AM</p> <p>8 Q Who paid for your drinks? 10:50:42AM</p> <p>9 A I paid for one, and I think I bought a 10:50:44AM</p> <p>10 round and he bought a round.</p> <p>11 Q When you say "a round," do you know 10:50:49AM</p> <p>12 what it means to pay a round?</p> <p>13 A You know, I bought my drink and his 10:50:51AM</p> <p>14 the first time, and he bought, you know, his and</p> <p>15 mine the second time.</p> <p>16 Q So he did have alcohol that night? 10:50:58AM</p> <p>17 MR. NOVIKOFF: Objection. 10:51:00AM</p> <p>18 A It may have been a soda. I don't 10:51:01AM</p> <p>19 recall what he drank. But I put money on the</p> <p>20 bar; they took money from me. Then he put money</p> <p>21 on the bar; they took money from him.</p> <p>22 Q Was John Oley there with you? 10:51:11AM</p> <p>23 A No. 10:51:16AM</p> <p>24 Q Was John Oley at CJ's with you? 10:51:16AM</p> <p>25 A No. 10:51:19AM</p>	<p>1 TYREE BACON</p> <p>2 Q What were they drinking in the 10:52:12AM</p> <p>3 barracks?</p> <p>4 A Beer. 10:52:14AM</p> <p>5 Q Did you ever see them drink in the 10:52:16AM</p> <p>6 police station?</p> <p>7 A No. 10:52:19AM</p> <p>8 Q Did you ever see Arnold Hardman 10:52:27AM</p> <p>9 drinking in Ocean Beach?</p> <p>10 A I never saw Arnie drink at all. 10:52:31AM</p> <p>11 Q And other than for the times that you 10:52:33AM</p> <p>12 testified about thus far, have you ever seen</p> <p>13 George Hesse drink in Ocean Beach?</p> <p>14 MR. NOVIKOFF: Okay, other than -- 10:52:44AM</p> <p>15 BY MR. GOODSTADT: 10:52:45AM</p> <p>16 Q Other than what you testified to thus 10:52:45AM</p> <p>17 far.</p> <p>18 A Yes. 10:52:48AM</p> <p>19 Q How many times? 10:52:48AM</p> <p>20 A A handful of times, and that would be 10:52:50AM</p> <p>21 two, three, four, five. I'm not certain.</p> <p>22 Q What places have you seen George Hesse 10:52:58AM</p> <p>23 drink in Ocean Beach?</p> <p>24 A CJ's, the Albatross, McGuire's. 10:53:02AM</p> <p>25 Q Anywhere else? 10:53:15AM</p>
Page 58	Page 60
<p>1 TYREE BACON</p> <p>2 Q Was he at Bacci Beach with you? 10:51:20AM</p> <p>3 A No. 10:51:22AM</p> <p>4 Q Did you ever see Patrick Cherry drink 10:51:33AM</p> <p>5 at Ocean Beach?</p> <p>6 A No. 10:51:36AM</p> <p>7 Q How about the Bosettis, did you ever 10:51:36AM</p> <p>8 see them drink at Ocean Beach?</p> <p>9 A Yeah, all the time. 10:51:40AM</p> <p>10 Q What do you mean by "all the time"? 10:51:41AM</p> <p>11 A Off duty. I worked midnights, they 10:51:42AM</p> <p>12 worked 4 to 12s. When they got off duty, I'd</p> <p>13 see them in town.</p> <p>14 Q Did you ever see them drunk in Ocean 10:51:50AM</p> <p>15 Beach?</p> <p>16 A I may have once or twice. 10:51:54AM</p> <p>17 Q What years? 10:51:57AM</p> <p>18 A I have no idea. It was after '99. 10:51:57AM</p> <p>19 Q Did you ever see them drinking in the 10:52:03AM</p> <p>20 barracks?</p> <p>21 A Yes. 10:52:05AM</p> <p>22 Q How many times? 10:52:05AM</p> <p>23 A A couple of times. 10:52:07AM</p> <p>24 Q How many is a couple? 10:52:08AM</p> <p>25 A Two or three. 10:52:10AM</p>	<p>1 TYREE BACON</p> <p>2 A I think that's about it. 10:53:16AM</p> <p>3 Q Was he on duty on any of those 10:53:20AM</p> <p>4 occasions?</p> <p>5 A I don't believe so. 10:53:22AM</p> <p>6 Q Was he in uniform on any of those 10:53:23AM</p> <p>7 occasions?</p> <p>8 A No. 10:53:25AM</p> <p>9 Q Did you ever see George Hesse drunk in 10:53:27AM</p> <p>10 Ocean Beach?</p> <p>11 A No. 10:53:30AM</p> <p>12 Q Is there any policy regarding drinking 10:53:34AM</p> <p>13 in the bars when you're off duty in Ocean Beach?</p> <p>14 MR. NOVIKOFF: Presently? 10:53:40AM</p> <p>15 BY MR. GOODSTADT: 10:53:40AM</p> <p>16 Q At any point in time that you worked 10:53:41AM</p> <p>17 there.</p> <p>18 A No, I don't believe there was. 10:53:43AM</p> <p>19 Q You don't recall Joe Loeffler, Sr. 10:53:44AM</p> <p>20 having a policy that off-duty officers couldn't</p> <p>21 drink in the bars at Ocean Beach?</p> <p>22 A That was back in the early '90s, there 10:53:52AM</p> <p>23 was. But under Eddie Paradiso, I don't -- Eddie</p> <p>24 changed some of the policies and procedures, and</p> <p>25 we never all got copies of them.</p>

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1 TYREE BACON

2 **Q Did he change that policy? 10:54:04AM**

3 A I have no idea. 10:54:06AM

4 **Q So you don't know one way or the other 10:54:07AM**

5 **whether it was still --**

6 A No. 10:54:11AM

7 **Q -- in effect? 10:54:11AM**

8 A No, I do not. 10:54:12AM

9 **Q Did you ever confiscate any beer in 10:54:15AM**

10 **Ocean Beach?**

11 A No, I didn't. 10:54:18AM

12 **Q Was there a policy as to what would 10:54:20AM**

13 **happen to beer that would be confiscated in**

14 **Ocean Beach?**

15 MR. NOVIKOFF: Objection. 10:54:27AM

16 A None that I'm aware of. 10:54:29AM

17 **Q So had you had the occasion to 10:54:31AM**

18 **confiscate beer, you wouldn't know what to do**

19 **with it?**

20 MR. NOVIKOFF: Objection. 10:54:36AM

21 If you can answer. 10:54:39AM

22 A No, I don't. 10:54:40AM

23 **Q Do you know whether police officers, 10:54:46AM**

24 **whether on duty or off, were permitted to drink**

25 **beer that was confiscated?**

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1 TYREE BACON

2 MR. NOVIKOFF: Objection. 10:54:56AM

3 A Repeat that. 10:54:57AM

4 **Q Do you know whether police officers in 10:54:58AM**

5 **Ocean Beach, whether they be on duty or off**

6 **duty, were entitled or permitted to drink beer**

7 **that was confiscated?**

8 MR. NOVIKOFF: Objection. 10:55:09AM

9 A I don't know if that was permitted or 10:55:10AM

10 not, no.

11 **Q Do you know whether that happened or 10:55:13AM**

12 **not?**

13 A Yes, it happened all the time. 10:55:14AM

14 **Q And who drank beer that was 10:55:16AM**

15 **confiscated?**

16 A Everybody. 10:55:20AM

17 **Q Tell me who. 10:55:21AM**

18 A Well, we can start with one, two, 10:55:24AM

19 three of the defendants.

20 **Q Which ones? 10:55:30AM**

21 A Or complainants, whatever -- 10:55:30AM

22 MR. NOVIKOFF: Plaintiffs. 10:55:32AM

23 THE WITNESS: Plaintiffs, thank you. 10:55:33AM

24 A Myself, the Bosettis, Walter Moeller, 10:55:35AM

25 Chief Hesse, Chief Paradiso. Just about

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1 TYREE BACON

2 everybody who was on the roster at one point or

3 another had taken a beer out of the refrigerator

4 which had been confiscated previously, whether

5 it was that tour, a week before, and would take

6 one for the ride home.

7 **Q What do you mean, would take one for 10:56:05AM**

8 **the ride home?**

9 A Weed take it. When we got to the 10:56:09AM

10 checkpoint, we'd have a cold one before we left.

11 **Q Did you ever drink the beer in the 10:56:14AM**

12 **vehicle on the way to the checkpoint?**

13 A No, I did not. 10:56:19AM

14 **Q Did you ever witnesses anybody drink a 10:56:20AM**

15 **beer in the police vehicle on the way to the**

16 **station -- on the way to the checkpoint?**

17 A No. 10:56:29AM

18 **Q Did you ever go in a vehicle with 10:56:29AM**

19 **either of the Bosetti brothers to the**

20 **checkpoint?**

21 A No. 10:56:37AM

22 **Q Did you ever go in a -- 10:56:37AM**

23 A Let me -- there were times when we 10:56:37AM

24 brought them out. If I worked midnights and

25 they worked 4 to 12s, and they chose to stay

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1 TYREE BACON

2 around to go frequent any of the establishments,

3 after 4:00, 5:00 in the morning, when the place

4 closed up, we may take them to the checkpoint.

5 That's happened, yes.

6 **Q Why would you or any other officers 10:56:56AM**

7 **take them to the checkpoint?**

8 A So they can get their cars and go home 10:57:01AM

9 so they didn't have to wait for the ferry in the

10 morning.

11 **Q So you did that while you were on 10:57:05AM**

12 **duty?**

13 A Yes. 10:57:08AM

14 **Q Did anybody instruct you to do that? 10:57:08AM**

15 A Nobody instructed me to do it. We did 10:57:12AM

16 not just for them. We did it for almost anybody

17 who chose to stick around after their shift and

18 they needed a ride out. It was after the water

19 taxis had shut down.

20 **Q When you say almost anyone, you mean 10:57:21AM**

21 **almost any of the police officers?**

22 A Yes. 10:57:25AM

23 **Q Who else have you driven off, other 10:57:25AM**

24 **than the Bosettis, during your shift?**

25 A During my shift? Anybody who's on the 10:57:29AM

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<p>1 TYREE BACON</p> <p>2 roster. Anybody who was a member of the</p> <p>3 department between 1999 and now has been driven</p> <p>4 back to the checkpoint at one point or another.</p> <p>5 Q So my question was: Who have you 10:57:40AM</p> <p>6 driven back to the check point while you were on</p> <p>7 tour?</p> <p>8 A I've driven the Bosettis. I've driven 10:57:46AM</p> <p>9 Chief Hesse. Who else? John Oley, Gordon</p> <p>10 Barra, Brian Butler. And those are some of the</p> <p>11 names. I'm sure there's at least 10 others that</p> <p>12 escape me.</p> <p>13 Q Have you ever driven any of the 10:58:12AM</p> <p>14 plaintiffs to the checkpoint while you were on</p> <p>15 tour?</p> <p>16 A Not that I recall. 10:58:17AM</p> <p>17 Q Each time you drove any of those 10:58:19AM</p> <p>18 officers that you testified to, it was because</p> <p>19 they stayed around after their tour, going to</p> <p>20 the bars?</p> <p>21 A Or -- yes. 10:58:28AM</p> <p>22 Q Did you ever sleep in the barracks? 10:58:29AM</p> <p>23 A A few times. 10:58:30AM</p> <p>24 Q Overnight? 10:58:32AM</p> <p>25 A No. 10:58:33AM</p>	<p>1 TYREE BACON</p> <p>2 Which plaintiffs were you referring to?</p> <p>3 A Mr. Carter, Mr. Snyder and Mr. Nofi. 10:59:26AM</p> <p>4 MR. NOVIKOFF: I'm sorry. Carter, 10:59:35AM</p> <p>5 Snyder and Nofi?</p> <p>6 BY MR. GOODSTADT: 10:59:38AM</p> <p>7 Q How many times did you see Carter 10:59:38AM</p> <p>8 drink beer that was confiscated?</p> <p>9 A A bunch. 10:59:41AM</p> <p>10 Q How many? 10:59:41AM</p> <p>11 A Half dozen. 10:59:42AM</p> <p>12 Q You actually witnessed him drinking 10:59:43AM</p> <p>13 the beer?</p> <p>14 A Yes. 10:59:46AM</p> <p>15 Q Where did he drink those beers? 10:59:46AM</p> <p>16 A Station house, barracks. 10:59:48AM</p> <p>17 Q Did you ever drink any of the beer in 10:59:50AM</p> <p>18 the station house?</p> <p>19 A No. 10:59:53AM</p> <p>20 Q Did you ever drink any of the beer 10:59:54AM</p> <p>21 that you took from the refrigerator in the</p> <p>22 barracks?</p> <p>23 A Yes. 10:59:59AM</p> <p>24 Q So other than the barracks and the 11:00:00AM</p> <p>25 checkpoint, where else would you drink beer that</p>
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<p>1 TYREE BACON</p> <p>2 Q Did you ever sleep in the barracks 10:58:35AM</p> <p>3 during a tour?</p> <p>4 A Yes. 10:58:38AM</p> <p>5 Q How many times? 10:58:38AM</p> <p>6 A A couple of times. 10:58:40AM</p> <p>7 Q Did anyone know about that? 10:58:43AM</p> <p>8 A Sure. When you take your meal break, 10:58:45AM</p> <p>9 you go up to the barracks and try to catch a</p> <p>10 couple of winks.</p> <p>11 Q That was an accepted practice? 10:58:52AM</p> <p>12 A I was on my meal break. 10:58:54AM</p> <p>13 Q But is that an accepted practice -- 10:58:55AM</p> <p>14 A Yes. 10:58:59AM</p> <p>15 Q -- on your meal practice break to go 10:58:59AM</p> <p>16 catch a couple of winks up in the barracks?</p> <p>17 A Yes. 10:59:04AM</p> <p>18 Q What time would you take your meal 10:59:04AM</p> <p>19 breaks during the midnight to 8 tour?</p> <p>20 A Five. After 5. 10:59:11AM</p> <p>21 Q After the bars shut down and the town 10:59:12AM</p> <p>22 got quiet?</p> <p>23 A Yes. 10:59:15AM</p> <p>24 Q I believe you testified that three of 10:59:19AM</p> <p>25 the plaintiffs drank beer that was confiscated.</p>	<p>1 TYREE BACON</p> <p>2 you had taken from the refrigerator?</p> <p>3 A That was it. 11:00:08AM</p> <p>4 Q How many times did you see Snyder 11:00:08AM</p> <p>5 drink beer that was confiscated?</p> <p>6 A Once or twice. 11:00:12AM</p> <p>7 Q When would you see Snyder do that? 11:00:13AM</p> <p>8 A I don't remember anything specific. 11:00:15AM</p> <p>9 When he was still working there.</p> <p>10 Q Do you recall what year? 11:00:19AM</p> <p>11 A After '99. 11:00:20AM</p> <p>12 Q Do you recall what year after '99? 11:00:21AM</p> <p>13 A No. 11:00:22AM</p> <p>14 Q Was it closer to '99 or closer to 11:00:24AM</p> <p>15 today?</p> <p>16 A Closer to '99. 11:00:27AM</p> <p>17 Q How about Nofi, how many times did you 11:00:30AM</p> <p>18 see him drink a beer that was confiscated?</p> <p>19 A Once or twice. 11:00:35AM</p> <p>20 Q Where did you see him drink the beer? 11:00:36AM</p> <p>21 A In the station house. 11:00:37AM</p> <p>22 Q When was that? 11:00:38AM</p> <p>23 A Same time frame. 11:00:39AM</p> <p>24 Q After '99? 11:00:40AM</p> <p>25 A Yes. 11:00:41AM</p>

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<p>1 TYREE BACON</p> <p>2 Q But you don't know what year? 11:00:42AM</p> <p>3 A No. 11:00:43AM</p> <p>4 Q Who else was there when Nofi drank in 11:00:43AM</p> <p>5 the station house?</p> <p>6 A I don't recall. 11:00:47AM</p> <p>7 Q Who else was there when Snyder drank 11:00:47AM</p> <p>8 in the station house?</p> <p>9 A I don't recall. 11:00:50AM</p> <p>10 Q Who else was there when Carter drank 11:00:50AM</p> <p>11 in the station house?</p> <p>12 A I don't recall. 11:00:53AM</p> <p>13 Q You don't recall a single person that 11:00:53AM</p> <p>14 was there?</p> <p>15 A No. 11:00:56AM</p> <p>16 Q Did you ever see Frank Fiorillo drink 11:00:59AM</p> <p>17 a beer that was confiscated?</p> <p>18 A No. 11:01:03AM</p> <p>19 Q And you never saw Kevin Lamm drink a 11:01:03AM</p> <p>20 beer that was confiscated?</p> <p>21 A No. 11:01:13AM</p> <p>22 Q Do you know what rocket fuel is? 11:01:26AM</p> <p>23 A Yes. 11:01:27AM</p> <p>24 Q What's rocket fuel? 11:01:28AM</p> <p>25 A It's a drink that they make over at 11:01:29AM</p>	<p>1 TYREE BACON</p> <p>2 Q They delivered the rocket fuels to the 11:02:10AM</p> <p>3 station?</p> <p>4 A Yes. 11:02:12AM</p> <p>5 Q Did you pay for the rocket fuel? 11:02:13AM</p> <p>6 A No, he brought it in and gave it to us 11:02:15AM</p> <p>7 for free, unless somebody else had paid for it.</p> <p>8 Q Did you ever see anyone drink rocket 11:02:26AM</p> <p>9 fuels in the station?</p> <p>10 A No. 11:02:30AM</p> <p>11 Q Did you ever hear that the plaintiffs 11:02:32AM</p> <p>12 in this case complained that they were required</p> <p>13 to clean up cups and debris from alcoholic</p> <p>14 beverages in the station?</p> <p>15 MR. NOVIKOFF: Can you just read that 11:02:42AM</p> <p>16 question. I didn't quite get it.</p> <p>17 (Whereupon, the requested portion was 11:02:53AM</p> <p>18 read back by the court reporter: Did you</p> <p>19 ever hear that the plaintiffs in this case</p> <p>20 complained that they were required to clean</p> <p>21 up cups and debris from alcoholic beverages</p> <p>22 in the station?)</p> <p>23 A No. 11:02:54AM</p> <p>24 Q Did you ever hear that they were 11:02:57AM</p> <p>25 required to clean up cups and debris from</p>
Page 70	Page 72
<p>1 TYREE BACON</p> <p>2 CJ's.</p> <p>3 Q What's in it? 11:01:31AM</p> <p>4 A I'm not sure. 11:01:34AM</p> <p>5 Q Did you ever have a rocket fuel? 11:01:35AM</p> <p>6 A Yes. 11:01:36AM</p> <p>7 Q How many times? 11:01:37AM</p> <p>8 A Once. 11:01:37AM</p> <p>9 Q Where did you have that rocket fuel? 11:01:38AM</p> <p>10 A Back at the checkpoint. 11:01:40AM</p> <p>11 Q How did you get that rocket fuel? 11:01:41AM</p> <p>12 A CJ's was closing. It was the end of 11:01:44AM</p> <p>13 the shift. I had a rocket fuel, and we went</p> <p>14 back to the checkpoint and had it in the parking</p> <p>15 lot.</p> <p>16 Q Did you go to pick it up at CJ's or 11:01:53AM</p> <p>17 was it brought to the station?</p> <p>18 A It was brought to the station. 11:01:58AM</p> <p>19 Q Who brought it to the station? 11:02:00AM</p> <p>20 A I don't recall. 11:02:01AM</p> <p>21 Q Did one of the officers bring it to 11:02:02AM</p> <p>22 the station or did someone who worked at CJ's</p> <p>23 bring it?</p> <p>24 A Actually, it was somebody who worked 11:02:07AM</p> <p>25 at CJ's.</p>	<p>1 TYREE BACON</p> <p>2 alcoholic beverages in the station?</p> <p>3 A No. 11:03:03AM</p> <p>4 Q Did you ever have to clean up cups ask 11:03:03AM</p> <p>5 debris from alcoholic beverages in the station?</p> <p>6 A No. Can I elaborate on that a little? 11:03:07AM</p> <p>7 We all had to clean up the station. You know,</p> <p>8 if there was trash and it was overflowing, you</p> <p>9 would take the trash out, you know. And there</p> <p>10 were times that there were pizza boxes or lunch</p> <p>11 wrappers and stuff like that. But as far as</p> <p>12 alcoholic beverages, no.</p> <p>13 Q Do you know why Joe Loeffler, Sr. had 11:03:36AM</p> <p>14 a policy against off-duty police officers</p> <p>15 drinking in the bars on Ocean Beach?</p> <p>16 MR. NOVIKOFF: Objection. 11:03:44AM</p> <p>17 A Probably public perception is what I 11:03:44AM</p> <p>18 would imagine.</p> <p>19 Q What do you mean by that? 11:03:48AM</p> <p>20 A If you're working a 4 to 12 and you're 11:03:49AM</p> <p>21 out there in uniform with the public and then</p> <p>22 you're frequenting the establishments, it</p> <p>23 doesn't look good for the public.</p> <p>24 MR. NOVIKOFF: The question was do you 11:03:58AM</p> <p>25 know.</p>

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1 TYREE BACON

2 THE WITNESS: Do I know? 11:04:01AM

3 MR. NOVIKOFF: No guessing. You 11:04:02AM

4 answered the question. But just for the

5 future, the question --

6 A No, I don't know, then. 11:04:05AM

7 **Q But that was your understanding of 11:04:07AM**

8 **why?**

9 A Yes. 11:04:09AM

10 **Q You thought it would compromise or 11:04:09AM**

11 **undermine you as a police officer if you were**

12 **drinking and socializing with the people in the**

13 **village at the bars?**

14 MR. NOVIKOFF: Objection. 11:04:19AM

15 A It could. 11:04:21AM

16 **Q Did George Hesse ever -- well, strike 11:04:26AM**

17 **that.**

18 **I realize that you've called George 11:04:30AM**

19 **Hesse Chief Hesse a bunch of times.**

20 A Yes. 11:04:35AM

21 **Q Okay. Do you refer to him as Chief 11:04:35AM**

22 **Hesse?**

23 A Yes. 11:04:38AM

24 **Q Do you still refer to him as Chief 11:04:38AM**

25 **Hesse?**

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1 TYREE BACON

2 A Yes. 11:04:41AM

3 **Q Do you know if any other people refer 11:04:42AM**

4 **to him still as Chief Hesse?**

5 A Everybody that works in the 11:04:46AM

6 department.

7 **Q Is he currently the chief? 11:04:47AM**

8 A I believe he's the deputy chief or 11:04:49AM

9 acting deputy chief.

10 **Q Who is the chief? 11:04:54AM**

11 A There is none right now. 11:04:55AM

12 **Q So currently George Hesse is the 11:04:57AM**

13 **highest ranking officer in the department?**

14 MR. NOVIKOFF: Objection. 11:05:01AM

15 A Yes. 11:05:02AM

16 **Q Do you know if anyone outside -- have 11:05:05AM**

17 **you ever heard of anyone outside the village**

18 **refer to George Hesse as Chief Hesse?**

19 MR. NOVIKOFF: Objection. 11:05:13AM

20 A Yes. 11:05:14AM

21 **Q Who? 11:05:17AM**

22 A People in town. 11:05:19AM

23 **Q In the Town of Islip? 11:05:21AM**

24 A Village of Ocean Beach. No, the 11:05:23AM

25 townspeople in the Village of Ocean Beach.

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1 TYREE BACON

2 **Q How about outside the village? 11:05:28AM**

3 MR. NOVIKOFF: Wait a minute. 11:05:30AM

4 Have you ever heard people who are not 11:05:31AM

5 residents of Ocean Beach in Ocean Beach

6 refer to Chief Hesse or anyone outside of

7 the village, regardless of whether they are

8 residents, refer to him as chief?

9 MR. GOODSTADT: Correct. The latter. 11:05:41AM

10 MR. NOVIKOFF: The latter. Okay. 11:05:43AM

11 Objection.

12 You can answer. 11:05:46AM

13 A Yes. 11:05:47AM

14 **Q Have you ever heard non-residents -- 11:05:48AM**

15 A Yes. 11:05:50AM

16 **Q -- and non-police officers refer to 11:05:51AM**

17 **George Hesse as Chief Hesse outside the village?**

18 A Non-residents, but those were police 11:05:57AM

19 officers.

20 **Q Police officers in Ocean Beach or 11:06:01AM**

21 **police officers in other areas?**

22 A Police officers from Suffolk County. 11:06:04AM

23 **Q Does George Hesse currently carry a 11:06:13AM**

24 **firearm?**

25 A No, he does not. 11:06:17AM

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1 TYREE BACON

2 **Q Does he wear a uniform? 11:06:18AM**

3 A No, he does not. 11:06:20AM

4 **Q What does he wear to work every day? 11:06:21AM**

5 A Civilian clothes. 11:06:24AM

6 **Q What do you mean by that? 11:06:25AM**

7 A Civilian clothes. 11:06:26AM

8 **Q Jeans, T-shirt? 11:06:27AM**

9 A Suit and tie, jeans and a T-shirt, 11:06:29AM

10 dress slacks and a collared shirt.

11 **Q When was the last time you recall 11:06:37AM**

12 **seeing George Hesse wearing a uniform?**

13 A Prior to his indictment. 11:06:43AM

14 **Q Do you know when his indictment was? 11:06:47AM**

15 A March or April of 2006 -- no, 2007. 11:06:49AM

16 **Q What's your understanding of what 11:07:01AM**

17 **George Hesse was indicted for?**

18 MR. NOVIKOFF: Objection. 11:07:05AM

19 MR. CONNOLLY: Objection. 11:07:07AM

20 A He was indicted for a crime. 11:07:07AM

21 **Q What crime? 11:07:09AM**

22 A Gang assault. 11:07:12AM

23 **Q Do you know who the alleged victim is? 11:07:16AM**

24 A The name I've heard was Gilbert or Gil 11:07:20AM

25 Bard.

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<p>1 TYREE BACON</p> <p>2 Q Do you know where the alleged crime 11:07:25AM</p> <p>3 occurred?</p> <p>4 A Yes. 11:07:28AM</p> <p>5 Q Where? 11:07:28AM</p> <p>6 A In the police station. 11:07:29AM</p> <p>7 Q How did you learn that that's where 11:07:31AM</p> <p>8 the alleged crime occurred?</p> <p>9 A I was at the arraignment. 11:07:34AM</p> <p>10 Q Have you ever read the indictment? 11:07:38AM</p> <p>11 A No, I did not. 11:07:40AM</p> <p>12 Q Have you ever discussed with George 11:07:41AM</p> <p>13 Hesse any allegations related to Mr. Gilbert?</p> <p>14 A No. 11:07:48AM</p> <p>15 Q Were you on duty that night? 11:07:48AM</p> <p>16 A I was not. 11:07:50AM</p> <p>17 Q When was the incident alleged to have 11:07:51AM</p> <p>18 occurred?</p> <p>19 A I'm not even certain. I wasn't there. 11:07:54AM</p> <p>20 Q Do you know who was there? 11:07:57AM</p> <p>21 MR. NOVIKOFF: Objection. He wasn't 11:07:59AM</p> <p>22 there, so how could he know? He could've</p> <p>23 heard from another source. If that's the</p> <p>24 question, that's fine.</p> <p>25 MR. GOODSTADT: That's -- 11:08:09AM</p>	<p>1 TYREE BACON</p> <p>2 (Whereupon, a discussion was held off 11:09:13AM</p> <p>3 the record.)</p> <p>4 THE VIDEOGRAPHER: The time is 11:27. 11:26:51AM</p> <p>5 We are back on the record.</p> <p>6 BY MR. GOODSTADT: 11:26:57AM</p> <p>7 Q Sir, have you ever spoken to any of 11:26:59AM</p> <p>8 George Hesse's lawyers about the Gilbert</p> <p>9 incident?</p> <p>10 A No, I have not. 11:27:06AM</p> <p>11 Q Have you spoken to Mr. Embry's lawyer 11:27:07AM</p> <p>12 about the Gilbert incident?</p> <p>13 A No. 11:27:13AM</p> <p>14 Q Have you spoken to Mr. Hardman's 11:27:13AM</p> <p>15 lawyer about the Gilbert incident?</p> <p>16 A No, I have not. 11:27:18AM</p> <p>17 Q Have you ever spoken with 11:27:19AM</p> <p>18 Mr. Corolla's lawyer about the Gilbert incident?</p> <p>19 A No, I have not. 11:27:22AM</p> <p>20 Q Do you know who Gary Sisler is? 11:27:23AM</p> <p>21 Sisker?</p> <p>22 A Yes. 11:27:26AM</p> <p>23 Q Who is Gary Sisker? 11:27:26AM</p> <p>24 A He was the attorney that I had 11:27:28AM</p> <p>25 retained when I was suspended from MacArthur</p>
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<p>1 TYREE BACON</p> <p>2 MR. NOVIKOFF: Okay. 11:08:10AM</p> <p>3 A Yeah, the officers that were named in 11:08:11AM</p> <p>4 the indictment.</p> <p>5 Q Which are who? 11:08:14AM</p> <p>6 A Chief Hesse, Arnie Hardman, Paul 11:08:16AM</p> <p>7 Corolla. And who was the other one? Bill</p> <p>8 Embry.</p> <p>9 Q Did you ever discuss with Arnold 11:08:40AM</p> <p>10 Hardman any allegations with respect to the</p> <p>11 Gilbert matter?</p> <p>12 A I have not. 11:08:46AM</p> <p>13 Q Have you ever discussed with Paul 11:08:46AM</p> <p>14 Corolla any allegations with respect to the</p> <p>15 Gilbert matter?</p> <p>16 A I have not. 11:08:50AM</p> <p>17 Q Have you ever spoken to William Embry 11:08:51AM</p> <p>18 with respect to the allegations in the Gilbert</p> <p>19 matter?</p> <p>20 A I have not. 11:08:57AM</p> <p>21 MR. NOVIKOFF: Hold on one second.. 11:09:04AM</p> <p>22 Let's take a two-minutes break.</p> <p>23 MR. GOODSTADT: Sure. 11:09:09AM</p> <p>24 THE VIDEOGRAPHER: The time is 11:10. 11:09:10AM</p> <p>25 We're going off the record.</p>	<p>1 TYREE BACON</p> <p>2 Airport.</p> <p>3 Q What were you suspended for? 11:27:35AM</p> <p>4 A For the Maureen Walsh incident. 11:27:38AM</p> <p>5 Q How long were you suspended for? 11:27:41AM</p> <p>6 A I'm still suspended to this day, from 11:27:43AM</p> <p>7 January 21st, 1999 until today, pending an</p> <p>8 investigation.</p> <p>9 Q Did you ever challenge that 11:27:53AM</p> <p>10 suspension?</p> <p>11 A That's what -- Gary sent a couple of 11:27:56AM</p> <p>12 letters to the town attorney, and he never</p> <p>13 responded.</p> <p>14 Q Did you ever file notice of claim 11:28:02AM</p> <p>15 against the town?</p> <p>16 A No. 11:28:05AM</p> <p>17 Q Do you know what the official reason 11:28:09AM</p> <p>18 for your suspension is?</p> <p>19 A Pending an investigation, that's what 11:28:14AM</p> <p>20 I was notified.</p> <p>21 Q What was the official -- 11:28:17AM</p> <p>22 A There was -- 11:28:19AM</p> <p>23 MR. NOVIKOFF: Hold on. 11:28:20AM</p> <p>24 BY MR. GOODSTADT: 11:28:21AM</p> <p>25 Q What was the official reason given for 11:28:22AM</p>

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<p>1 TYREE BACON</p> <p>2 your suspension?</p> <p>3 MR. NOVIKOFF: Objection to form and 11:28:24AM</p> <p>4 foundation. There's no establishment that</p> <p>5 there has been an official reason given.</p> <p>6 You can answer. 11:28:31AM</p> <p>7 A There was never an official reason. 11:28:31AM</p> <p>8 It was pending an investigation.</p> <p>9 Q And the Maureen Walsh incident, you 11:28:35AM</p> <p>10 said you were issuing a summons, that's how it</p> <p>11 started?</p> <p>12 A Yes. 11:28:53AM</p> <p>13 Q What year was that? 11:28:53AM</p> <p>14 A 1999. 11:28:54AM</p> <p>15 Q 1999 -- well, strike that.. 11:28:55AM</p> <p>16 What was the summons for? 11:28:56AM</p> <p>17 A Dog in the airport on a leash. The 11:28:57AM</p> <p>18 dog needed to be in a crate. She was bringing</p> <p>19 the dog into the building. It needed to be in a</p> <p>20 kennel cage.</p> <p>21 Q And you were security? 11:29:08AM</p> <p>22 A Yes. 11:29:09AM</p> <p>23 Q What was your actual title there at 11:29:09AM</p> <p>24 the time?</p> <p>25 A Airport security guard. 11:29:11AM</p>	<p>1 TYREE BACON</p> <p>2 A Yes. 11:30:00AM</p> <p>3 Q We touched on this a bit before, but 11:30:08AM</p> <p>4 I'm not sure what we got through all of it.</p> <p>5 Were you ever sleeping while you were 11:30:15AM</p> <p>6 on duty and being paid?</p> <p>7 MR. NOVIKOFF: Objection. Asked and 11:30:18AM</p> <p>8 answered.</p> <p>9 You can answer. 11:30:19AM</p> <p>10 A Yes. During meal. 11:30:20AM</p> <p>11 Q That was during a break? 11:30:22AM</p> <p>12 A Yes. 11:30:23AM</p> <p>13 Q Have you ever been sleeping during 11:30:24AM</p> <p>14 your tour when you were not on break?</p> <p>15 A No. 11:30:29AM</p> <p>16 Q You never fell asleep behind the 11:30:31AM</p> <p>17 school on a basketball court in Corneil?</p> <p>18 A No. 11:30:39AM</p> <p>19 Q Were you on bike patrol ever at Ocean 11:30:41AM</p> <p>20 Beach?</p> <p>21 A Yes. 11:30:44AM</p> <p>22 Q Was that a title that you had? 11:30:45AM</p> <p>23 A It was just a duty I had. I did 11:30:47AM</p> <p>24 bicycle patrol rather than foot patrol or</p> <p>25 vehicle patrol.</p>
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<p>1 TYREE BACON</p> <p>2 Q As an airport security guard in 1999, 11:29:13AM</p> <p>3 did you have the authority to issue a summons</p> <p>4 for a dog on a leash?</p> <p>5 A Yes. 11:29:21AM</p> <p>6 Q And where is that authority from? 11:29:21AM</p> <p>7 MR. NOVIKOFF: Objection. You can 11:29:23AM</p> <p>8 answer.</p> <p>9 A Islip town -- actually, town law. 11:29:25AM</p> <p>10 Q Town law? 11:29:28AM</p> <p>11 A Yep. 11:29:29AM</p> <p>12 Q Did you have the authority to arrest 11:29:37AM</p> <p>13 in 1999?</p> <p>14 A Yes. 11:29:39AM</p> <p>15 Q And under what law did you have the 11:29:39AM</p> <p>16 authority to arrest?</p> <p>17 A Under the -- 11:29:42AM</p> <p>18 MR. NOVIKOFF: Objection. 11:29:42AM</p> <p>19 You can answer. 11:29:43AM</p> <p>20 A Under the criminal procedure law. 11:29:44AM</p> <p>21 Q So it's your testimony, sir, that in 11:29:48AM</p> <p>22 1999, under the criminal procedure law, you, as</p> <p>23 an Islip airport security guard, had the</p> <p>24 authority to arrest?</p> <p>25 MR. NOVIKOFF: Objection. 11:30:00AM</p>	<p>1 TYREE BACON</p> <p>2 Q Were there other people that did bike, 11:30:54AM</p> <p>3 as well, during your tour?</p> <p>4 A Yes. 11:30:58AM</p> <p>5 Q Who else were on bike patrol? 11:30:58AM</p> <p>6 A Ken Boggleman. 11:31:00AM</p> <p>7 Q So Ken Boggleman and yourself were the 11:31:01AM</p> <p>8 bike patrol officers?</p> <p>9 A Yes. 11:31:06AM</p> <p>10 Q Is it your testimony, sir, that when 11:31:07AM</p> <p>11 you were on bike patrol, you never fell asleep</p> <p>12 behind the school on Corneil on the basketball</p> <p>13 court?</p> <p>14 MR. NOVIKOFF: Objection. Form. 11:31:17AM</p> <p>15 Asked and answered.</p> <p>16 And is the question while he was 11:31:18AM</p> <p>17 riding his bike, did he ever fall asleep?</p> <p>18 MR. GOODSTADT: No, while he was on 11:31:23AM</p> <p>19 bike patrol.</p> <p>20 MR. NOVIKOFF: Well, same objections. 11:31:26AM</p> <p>21 You can answer. 11:31:26AM</p> <p>22 A No. 11:31:27AM</p> <p>23 Q It's not your testimony? 11:31:28AM</p> <p>24 MR. NOVIKOFF: Objection. 11:31:29AM</p> <p>25 A That is my testimony. I did not fall 11:31:30AM</p>

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1 TYREE BACON

2 asleep.

3 Q I believe you testified your 11:31:35AM

4 understanding of one of the allegations in the

5 complaint is that the plaintiffs witnessed sex;

6 is that correct?

7 MR. NOVIKOFF: Objection. 11:31:45AM

8 You can answer. 11:31:45AM

9 A Yes. 11:31:46AM

10 Q You testified to that. 11:31:47AM

11 Did you ever have sex while you were 11:31:47AM

12 on duty in Ocean Beach?

13 A No. 11:31:50AM

14 MR. NOVIKOFF: Do you have a 11:31:56AM

15 good-faith basis to ask that question?

16 Because I think that question kind of

17 crossed the line unless you do have a good

18 faith basis.

19 MR. GOODSTADT: Well, you produced his 11:32:08AM

20 polygraph test where he said while employed

21 by the Ocean Beach Police Department the

22 applicant stated he had sex while on duty.

23 Do you think that's a good-faith basis?

24 BY MR. GOODSTADT: 11:32:20AM

25 Q Sir, isn't it true that you told the 11:32:20AM

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1 TYREE BACON

2 person who administered the polygraph to you in

3 2005 that while employed by the Ocean Beach

4 Police Department, that you stated you had sex

5 while on duty?

6 A That's not what I told them, but 11:32:32AM

7 that's what you got in front of you, apparently.

8 Q Did you testify at all about sex in 11:32:37AM

9 connection with your -- strike that.

10 Did you tell the polygraph 11:32:41AM

11 administrator anything at all about sex and

12 Ocean Beach?

13 A Yes. That was one of the 11:32:47AM

14 questions that -- questions that were asked.

15 They asked five questions. Did you ever sleep

16 on the job, drink on the job, have sex on the

17 job, party to any brutality and lie in any

18 criminal proceedings. I think those were the

19 questions that they asked --

20 Q Uh-huh. 11:33:04AM

21 A -- repeatedly. 11:33:04AM

22 Q And it's your testimony that you never 11:33:06AM

23 told them that you had sex while on duty?

24 A Yes, that's my testimony. I had sex 11:33:11AM

25 in Ocean Beach. I wasn't on duty.

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1 TYREE BACON

2 Q Did you ever have sex in the barracks 11:33:18AM

3 in Ocean Beach?

4 A No. 11:33:21AM

5 Q Who did you have sex with in Ocean 11:33:22AM

6 Beach?

7 A My girlfriend at the time. 11:33:24AM

8 Q What is her name? 11:33:25AM

9 A Danielle. 11:33:27AM

10 Q Sir, did you ever use the services of 11:33:38AM

11 a prostitute?

12 A Yes. 11:33:40AM

13 Q How many times? 11:33:41AM

14 A Once. 11:33:42AM

15 Q Where was that? 11:33:44AM

16 A In Germany. 11:33:45AM

17 Q Sir, isn't it true -- 11:33:47AM

18 MR. NOVIKOFF: Did you say in Germany? 11:33:49AM

19 THE WITNESS: In Germany. 11:33:50AM

20 MR. NOVIKOFF: Okay. 11:33:52AM

21 BY MR. GOODSTADT: 11:33:52AM

22 Q Sir, isn't it true that you told the 11:33:52AM

23 person that administered the polygraph that you

24 had sex -- that you used the services of a

25 prostitute on approximately six occasions?

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1 TYREE BACON

2 MR. NOVIKOFF: Objection. You can 11:34:02AM

3 answer.

4 A I don't recall that. 11:34:04AM

5 Q Is it true that you used the services 11:34:05AM

6 of prostitute on approximately six occasions?

7 A It was six different girls, one place 11:34:14AM

8 in one instance.

9 Q Oh. So when you responded once, it 11:34:19AM

10 was one time with six different girls?

11 A Yes. 11:34:27AM

12 Q And that was -- 11:34:28AM

13 MR. NOVIKOFF: In Germany? 11:34:29AM

14 THE WITNESS: In Germany. 11:34:30AM

15 MR. NOVIKOFF: If you want to keep 11:34:31AM

16 going with this, go ahead.

17 BY MR. GOODSTADT: 11:34:43AM

18 Q Do you know whether George Hesse has 11:35:01AM

19 ever had sex on duty?

20 MR. CONNOLLY: Objection. 11:35:05AM

21 A That, I don't know. 11:35:06AM

22 MR. NOVIKOFF: Just so we're clear, 11:35:08AM

23 when you say does he know, has he ever

24 witnessed it or has he ever heard?

25

Page 89	Page 91
<p>1 TYREE BACON</p> <p>2 BY MR. GOODSTADT: 11:35:13AM</p> <p>3 Q Have you ever witnessed it? 11:35:14AM</p> <p>4 A No. 11:35:16AM</p> <p>5 Q Did you ever heard that George Hesse 11:35:16AM</p> <p>6 had sex while on duty?</p> <p>7 A No. 11:35:20AM</p> <p>8 Q Did you ever hear him brag about 11:35:20AM</p> <p>9 having sex with Elyse Miller?</p> <p>10 A No. 11:35:24AM</p> <p>11 Q Did you ever hear him brag about 11:35:25AM</p> <p>12 having sex with Allison Sanchez?</p> <p>13 A No. 11:35:30AM</p> <p>14 Q Did you ever work for the New York 11:35:36AM</p> <p>15 City EMS?</p> <p>16 A I did. 11:35:41AM</p> <p>17 Q And when did you do that? 11:35:41AM</p> <p>18 A From 1984 through 1987. 11:35:44AM</p> <p>19 Q What was your title there? 11:35:48AM</p> <p>20 A Emergency medical specialist level 11:35:50AM</p> <p>21 one.</p> <p>22 Q What does that mean? 11:35:54AM</p> <p>23 A I was an EMT. 11:35:55AM</p> <p>24 Q Did you travel in an ambulance? 11:35:59AM</p> <p>25 A Yes. 11:36:01AM</p>	<p>1 TYREE BACON</p> <p>2 A Once -- twice. 11:37:07AM</p> <p>3 Q What were you disciplined for? 11:37:09AM</p> <p>4 A Had a motor vehicle accident and was 11:37:11AM</p> <p>5 retrained EVOC.</p> <p>6 Q What does EVOC mean? 11:37:20AM</p> <p>7 A Emergency vehicle operator's course. 11:37:23AM</p> <p>8 Q What was the other time? 11:37:26AM</p> <p>9 A Making long-distance phone calls. 11:37:27AM</p> <p>10 Q What do you mean by that? 11:37:31AM</p> <p>11 A When I transitioned from 212 to the 11:37:32AM</p> <p>12 212/718 area code, my girlfriend was going to</p> <p>13 school upstate, and I called her from the phone</p> <p>14 and had phone sex with her.</p> <p>15 Q From the phone issued by the New York 11:37:45AM</p> <p>16 City EMS?</p> <p>17 A Yes. 11:37:49AM</p> <p>18 Q And the city paid for that bill? 11:37:51AM</p> <p>19 A No. I ended up ultimately paying for 11:37:52AM</p> <p>20 it.</p> <p>21 Q After you were caught making those 11:37:57AM</p> <p>22 calls?</p> <p>23 A Yes. 11:37:59AM</p> <p>24 Q Was that against policy, to make 11:38:00AM</p> <p>25 long-distance calls on the EMS phone?</p>
Page 90	Page 92
<p>1 TYREE BACON</p> <p>2 Q Did you work out of a certain 11:36:06AM</p> <p>3 precinct?</p> <p>4 A We had ambulance stations. 11:36:08AM</p> <p>5 Q Did the ambulance stations correlate 11:36:12AM</p> <p>6 to certain precincts?</p> <p>7 A We had sectors similar to precincts. 11:36:18AM</p> <p>8 They were areas. They didn't particularly</p> <p>9 correlate to specific precincts.</p> <p>10 Q What areas were you headquartered? 11:36:25AM</p> <p>11 A I worked out of Woodhull Hospital, 11:36:29AM</p> <p>12 which was the K7, which was Brooklyn north.</p> <p>13 Prior to that, I was in communications. And</p> <p>14 after Woodhull, I worked out of Elmhurst, which</p> <p>15 was northern Queens.</p> <p>16 Q Did you know either Gary or Richie 11:36:48AM</p> <p>17 Bosetti when you worked in the city?</p> <p>18 A No. 11:36:54AM</p> <p>19 Q Did you know either Gary or Richie 11:36:55AM</p> <p>20 Bosetti prior to them working at Ocean Beach?</p> <p>21 A No. 11:36:59AM</p> <p>22 Q Were you ever disciplined when you 11:36:59AM</p> <p>23 were an employee at the New York City EMS?</p> <p>24 A Yes. 11:37:06AM</p> <p>25 Q How many times? 11:37:06AM</p>	<p>1 TYREE BACON</p> <p>2 A It wasn't then, because you weren't 11:38:05AM</p> <p>3 able to until they transitioned. But as a</p> <p>4 result of that, they had a policy that you</p> <p>5 couldn't.</p> <p>6 Q It was just one time that you made a 11:38:12AM</p> <p>7 long-distance call?</p> <p>8 A No, it was a couple of times. 11:38:15AM</p> <p>9 Q Each time it was to have phone sex 11:38:18AM</p> <p>10 with your girlfriend?</p> <p>11 A Or talk to her. That was one of the 11:38:20AM</p> <p>12 things. Just talk in general. That was one of</p> <p>13 the things that happened while we were on the</p> <p>14 phone.</p> <p>15 Q Did you ever steal from the New York 11:38:26AM</p> <p>16 City EMS?</p> <p>17 A No.. 11:38:29AM</p> <p>18 Q You never stole medical surprise? 11:38:31AM</p> <p>19 A We would stock our bag up. My dad was 11:38:33AM</p> <p>20 a soccer coach. I would take extra stuff for</p> <p>21 his bag as a soccer coach.</p> <p>22 Q You didn't consider that stealing? 11:38:42AM</p> <p>23 A No, actually, it probably is. 11:38:43AM</p> <p>24 Q You didn't steal your helmet and 11:38:48AM</p> <p>25 oxygen regulator?</p>

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<p>1 TYREE BACON</p> <p>2 A No. I just didn't turn that in when I 11:38:52AM</p> <p>3 left.</p> <p>4 Q So it was property of EMS? 11:38:55AM</p> <p>5 A It was. 11:38:57AM</p> <p>6 Q That was issued to you as an employee 11:38:57AM</p> <p>7 of EMS?</p> <p>8 A Yes. 11:39:00AM</p> <p>9 Q And then when you left the employment 11:39:00AM</p> <p>10 of EMS, you didn't return it?</p> <p>11 A Right. 11:39:05AM</p> <p>12 Q Do you still maintain those? 11:39:05AM</p> <p>13 A No, actually, I don't. 11:39:07AM</p> <p>14 Q What did you do with that equipment? 11:39:09AM</p> <p>15 A They were ultimately turned back in to 11:39:11AM</p> <p>16 EMS.</p> <p>17 Q When was that? 11:39:14AM</p> <p>18 A It was a while after I had left. 11:39:15AM</p> <p>19 Q How long after? 11:39:16AM</p> <p>20 A I don't recall. 11:39:17AM</p> <p>21 Q So you stopped in '87. 11:39:19AM</p> <p>22 A Right. 11:39:21AM</p> <p>23 Q Right? Was it within five years? 11:39:21AM</p> <p>24 A Yeah. 11:39:25AM</p> <p>25 Q Why did you return them? 11:39:30AM</p>	<p>1 TYREE BACON</p> <p>2 didn't know that you had possession of that?</p> <p>3 A No, I had it. I just didn't go 11:40:24AM</p> <p>4 looking for it. They didn't make a big deal</p> <p>5 about not getting it.</p> <p>6 Q Were you fired from NYC EMS? 11:40:32AM</p> <p>7 A No. 11:40:35AM</p> <p>8 Q You left voluntarily? 11:40:36AM</p> <p>9 A Yes. 11:40:37AM</p> <p>10 Q Why did you leave? 11:40:38AM</p> <p>11 A For a job working for the state. Less 11:40:39AM</p> <p>12 hours and more money.</p> <p>13 Q What job did you have with the state? 11:40:42AM</p> <p>14 A Airport firefighter. 11:40:44AM</p> <p>15 Q What airport were you located at? 11:40:46AM</p> <p>16 A Gabreski Airport. 11:40:47AM</p> <p>17 Q How long did you hold that job? 11:40:50AM</p> <p>18 A Twelve years. 11:40:52AM</p> <p>19 Q Was that a full-time job? 11:40:52AM</p> <p>20 A Yes. 11:40:54AM</p> <p>21 Q Where is Gabreski Airport located? 11:40:55AM</p> <p>22 A In Westhampton Beach. 11:40:58AM</p> <p>23 Q Were you ever disciplined there? 11:41:02AM</p> <p>24 A Yes. 11:41:04AM</p> <p>25 Q What for? 11:41:04AM</p>
Page 94	Page 96
<p>1 TYREE BACON</p> <p>2 A They were collecting dust. It was 11:39:32AM</p> <p>3 either that or I was gonna throw them out.</p> <p>4 Q Did they ask for them back or did you 11:39:36AM</p> <p>5 voluntarily return them?</p> <p>6 A I gave them to a friend of mine to 11:39:38AM</p> <p>7 turn in to the quartermaster.</p> <p>8 Q What's "quartermaster"? 11:39:42AM</p> <p>9 A Their supply people. 11:39:43AM</p> <p>10 Q Does Ocean Beach have a quartermaster? 11:39:45AM</p> <p>11 A No. 11:39:48AM</p> <p>12 Q Why did you take the helmet and oxygen 11:39:54AM</p> <p>13 regulator when you left?</p> <p>14 MR. NOVIKOFF: Objection to the 11:39:58AM</p> <p>15 characterization.</p> <p>16 You can answer. 11:40:00AM</p> <p>17 A Okay. It just didn't get turned in 11:40:03AM</p> <p>18 when I left.</p> <p>19 Q How come? 11:40:06AM</p> <p>20 A It was in the basement somewhere. And 11:40:07AM</p> <p>21 then when it was found a year or so later, I</p> <p>22 don't need this and tossed it, you know -- I</p> <p>23 didn't toss it. Gave it back to my buddy and</p> <p>24 returned it to the quartermaster.</p> <p>25 Q So is it your testimony that you 11:40:21AM</p>	<p>1 TYREE BACON</p> <p>2 A Sick time abuse. 11:41:05AM</p> <p>3 Q Anything else? 11:41:09AM</p> <p>4 A No. 11:41:10AM</p> <p>5 Q Were you fired from your position at 11:41:13AM</p> <p>6 Gabreski Airport?</p> <p>7 A No. 11:41:16AM</p> <p>8 Q You left voluntarily? 11:41:16AM</p> <p>9 A Yes. 11:41:18AM</p> <p>10 Q Why did you leave there? 11:41:18AM</p> <p>11 A For the job with the courts. 11:41:19AM</p> <p>12 Q When did you leave there? 11:41:21AM</p> <p>13 A In September of '99. 11:41:22AM</p> <p>14 Q You testified that you worked at 11:41:32AM</p> <p>15 MacArthur Airport as a security guard, correct?</p> <p>16 A Yes. 11:41:39AM</p> <p>17 Q What years did you work there? 11:41:40AM</p> <p>18 A It was -- well, I'm still considered 11:41:45AM</p> <p>19 working there, but the suspension was effective,</p> <p>20 I think January 27th or 21st of 1999. I</p> <p>21 don't remember the start date. I was there for</p> <p>22 over a year.</p> <p>23 Q Some point in '97 or so? 11:42:01AM</p> <p>24 A '97 or '98. 11:42:04AM</p> <p>25 Q Was that a civil service position? 11:42:10AM</p>

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<p>1 TYREE BACON</p> <p>2 A I was a civil service, but it's a 11:42:12AM</p> <p>3 part-time position.</p> <p>4 Q Did you have to take any civil service 11:42:17AM</p> <p>5 tests for that position?</p> <p>6 A No. 11:42:19AM</p> <p>7 Q Did you have to get on the civil 11:42:21AM</p> <p>8 service list to get that position?</p> <p>9 MR. NOVIKOFF: Objection. 11:42:28AM</p> <p>10 A No. 11:42:28AM</p> <p>11 Q Who hired you over there? 11:42:29AM</p> <p>12 A Chief Collazo. 11:42:32AM</p> <p>13 Q Were any other Ocean Beach police 11:42:37AM</p> <p>14 officers working there at the time that you</p> <p>15 worked there?</p> <p>16 A No. 11:42:42AM</p> <p>17 Q Did you require any certification to 11:42:47AM</p> <p>18 work there?</p> <p>19 A Yes. 11:42:49AM</p> <p>20 Q What certifications did you need? 11:42:50AM</p> <p>21 A You had to have been through the 11:42:51AM</p> <p>22 Suffolk County civil service process, which was</p> <p>23 the physical agility, psychological, medical,</p> <p>24 and they required a BMP certificate for either</p> <p>25 peace or police officer.</p>	<p>1 TYREE BACON</p> <p>2 deception during the drug questions.</p> <p>3 Q Did you ever disclose to anyone at 11:44:08AM</p> <p>4 Ocean Beach that you had failed a prior Suffolk</p> <p>5 County polygraph?</p> <p>6 MR. NOVIKOFF: Objection. Foundation. 11:44:14AM</p> <p>7 You can answer. 11:44:18AM</p> <p>8 A I may have. 11:44:19AM</p> <p>9 Q You don't know one way or the other? 11:44:20AM</p> <p>10 A I don't recall specifically, no. 11:44:23AM</p> <p>11 Q Is it your testimony, sir, that you're 11:44:34AM</p> <p>12 still currently on the payroll at MacArthur</p> <p>13 Islip?</p> <p>14 A To the best of my knowledge, yes. 11:44:41AM</p> <p>15 Q Are you getting paid at all -- 11:44:42AM</p> <p>16 A No.. 11:44:44AM</p> <p>17 Q -- or does it say unpaid suspension? 11:44:44AM</p> <p>18 A It's unpaid suspension. 11:44:47AM</p> <p>19 Q Do you anticipate ever going to work 11:44:49AM</p> <p>20 there again?</p> <p>21 A No. 11:44:51AM</p> <p>22 Q Do you know whether the investigation 11:44:53AM</p> <p>23 is active?</p> <p>24 A I have no idea. 11:44:54AM</p> <p>25 Q Were you ever interviewed as part of 11:44:55AM</p>
Page 98	Page 100
<p>1 TYREE BACON</p> <p>2 Q Did you have to take a polygraph? 11:43:13AM</p> <p>3 A No. 11:43:15AM</p> <p>4 Q Prior to working at Ocean Beach, did 11:43:22AM</p> <p>5 you apply for any jobs in Suffolk County which</p> <p>6 you needed to take a polygraph for?</p> <p>7 A Yes. 11:43:29AM</p> <p>8 Q How many jobs? 11:43:29AM</p> <p>9 A Riverhead PD.. 11:43:31AM</p> <p>10 Q When did you apply to Riverhead PD? 11:43:33AM</p> <p>11 A I worked for them as a part-timer from 11:43:35AM</p> <p>12 '93 to '94 or '95.</p> <p>13 Q Did you take a polygraph prior to 11:43:44AM</p> <p>14 getting that position?</p> <p>15 A No. 11:43:47AM</p> <p>16 Q Did you take a polygraph at some point 11:43:48AM</p> <p>17 while you were working there?</p> <p>18 A Yes. 11:43:53AM</p> <p>19 Q Did you pass that polygraph? 11:43:54AM</p> <p>20 A No. 11:43:56AM</p> <p>21 Q You failed it? 11:43:56AM</p> <p>22 A Yes. 11:43:57AM</p> <p>23 Q What did you fail on the polygraph? 11:43:57AM</p> <p>24 Did you learn that?</p> <p>25 A I believe they said it showed 11:44:01AM</p>	<p>1 TYREE BACON</p> <p>2 the investigation?</p> <p>3 A Not from them. 11:44:58AM</p> <p>4 Q From anyone? 11:44:59AM</p> <p>5 A Yes. 11:45:00AM</p> <p>6 Q Who were you interviewed by? 11:45:00AM</p> <p>7 A Suffolk County PD internal affairs and 11:45:02AM</p> <p>8 the District Attorney's Office.</p> <p>9 Q Did you ever learn the results of -- 11:45:11AM</p> <p>10 A Yes, I was cleared by both. 11:45:13AM</p> <p>11 Q Let me ask the question before you 11:45:15AM</p> <p>12 answer.</p> <p>13 Did you ever learn the results of the 11:45:18AM</p> <p>14 investigation by the D.A.'s office or internal</p> <p>15 affairs?</p> <p>16 A Yes. 11:45:22AM</p> <p>17 Q What were the results? 11:45:23AM</p> <p>18 A I was cleared by both. My actions 11:45:25AM</p> <p>19 were proper.</p> <p>20 Q Did you ever get anything in writing 11:45:28AM</p> <p>21 that your actions were proper?</p> <p>22 A No. 11:45:30AM</p> <p>23 Q Did they determine your actions were 11:45:30AM</p> <p>24 proper before or after the town settled with</p> <p>25 Ms. Walsh for \$130,000?</p>

25 (Pages 97 to 100)

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1 **TYREE BACON**

2 MR. NOVIKOFF: Objection to form. 11:45:39AM

3 You can answer. 11:45:39AM

4 A I believe that would've been prior to 11:45:40AM

5 that.

6 Q Just so I'm clear, is it your 11:45:42AM

7 testimony that you were -- it was determined by

8 the Suffolk County Police Department internal

9 affairs and Suffolk County District Attorney's

10 Office that your actions were proper and then

11 the town settled for \$130,000?

12 MR. NOVIKOFF: Objection. Asked and 11:45:58AM

13 answered. Form.

14 A To the best of my knowledge, yes. 11:46:00AM

15 Q What was the process by which internal 11:46:09AM

16 affairs investigated?

17 A Spoke to an officer from internal 11:46:13AM

18 affairs.

19 Q That was it? That was your only 11:46:16AM

20 involvement?

21 A That was my only involvement. 11:46:18AM

22 Q Does Ocean Beach have an internal 11:46:20AM

23 affairs department?

24 A No. 11:46:23AM

25 Q Was Ms. Walsh prosecuted on the arrest 11:46:26AM

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1 **TYREE BACON**

2 that you made?

3 A Yes. 11:46:32AM

4 Q And what was the result of that 11:46:32AM

5 prosecution?

6 A She took an ACD. 11:46:35AM

7 Q What is that? 11:46:37AM

8 A Adjournment in contemplation of 11:46:39AM

9 dismissal.

10 Q Did she take that plea before she 11:46:47AM

11 sued?

12 A I'm not certain. 11:46:51AM

13 Q How did you learn of what her plea 11:46:53AM

14 was?

15 A The D.A. called and asked if I had a 11:46:56AM

16 problem if she took an ACD. I said I could care

17 less.

18 Q Were you at the courthouse when she 11:47:02AM

19 took that plea?

20 A No. 11:47:08AM

21 Q Have you ever been arrested? 11:47:19AM

22 A Yes. 11:47:21AM

23 Q How many times? 11:47:21AM

24 A Twice -- no, three times. 11:47:22AM

25 Q Okay. When was the first time you 11:47:27AM

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1 **TYREE BACON**

2 were arrested?

3 A It was in 1985. 11:47:31AM

4 Q What were you arrested for? 11:47:33AM

5 A Third-degree assault. 11:47:34AM

6 Q And who was the complaining witness in 11:47:39AM

7 that case?

8 A My girlfriend at the time, Christine 11:47:42AM

9 Gemmer. G-E-M-M-E-R.

10 Q What did Mr. Gemmer allege against 11:47:49AM

11 you?

12 A Miss Gemmer. 11:47:53AM

13 Q Miss Gemmer allege against you. 11:47:57AM

14 A That I slapped her with an open hand. 11:47:57AM

15 That was after I got -- we had an argument and I

16 got kneed in the groin.

17 Q Were you indicted for that offense? 11:48:04AM

18 A No. Misdemeanor. 11:48:06AM

19 Q How was that resolved, if at all? 11:48:08AM

20 A I pled guilty to harassment. 11:48:11AM

21 Q What court did you plead guilty in? 11:48:18AM

22 A Suffolk County. 11:48:20AM

23 Q Do you believe that you were guilty of 11:48:23AM

24 harassment?

25 MR. NOVIKOFF: Objection. 11:48:26AM

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1 **TYREE BACON**

2 A I did hit her. 11:48:26AM

3 Q Do you believe you were guilty of 11:48:31AM

4 harassment?

5 MR. NOVIKOFF: Objection. 11:48:33AM

6 If you understand the question. 11:48:37AM

7 A Yeah, I pled guilty. 11:48:38AM

8 Q What was the second time you were 11:48:43AM

9 arrested?

10 A Correct.. 11:48:46AM

11 Q I said when was the second time you 11:48:46AM

12 were arrested.

13 A Well, and in between that there was 11:48:49AM

14 the warrant of failure to pay, so that's what

15 I'm classifying as the second arrest..

16 Q What do you mean by a warrant for 11:49:00AM

17 failure to pay?

18 A I had to pay by whatever the 11:49:01AM

19 prescribed date was, \$125 fine. I didn't pay

20 it. I was going to pay it that Monday, and I

21 got picked up actually that Saturday.

22 Q So you had -- just so I understand, 11:49:15AM

23 you had a specific period in which to pay the

24 fine?

25 A Correct. 11:49:21AM

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<p>1 TYREE BACON</p> <p>2 Q And once that period expired, you 11:49:21AM</p> <p>3 hadn't paid?</p> <p>4 A Correct. 11:49:24AM</p> <p>5 Q And they came and picked you up? 11:49:24AM</p> <p>6 A Correct. 11:49:26AM</p> <p>7 Q And arrested you? 11:49:26AM</p> <p>8 A They took me into custody, brought me 11:49:27AM</p> <p>9 into the police station. I posted bail, which</p> <p>10 was the amount of the fine, and that was it.</p> <p>11 Q When was the third time you were 11:49:38AM</p> <p>12 arrested?</p> <p>13 A 1986. 11:49:42AM</p> <p>14 MR. NOVIKOFF: It's your deposition. 11:49:46AM</p> <p>15 Can we just get a year for the second arrest</p> <p>16 so that I don't have to ask it?</p> <p>17 BY MR. GOODSTADT: 11:49:50AM</p> <p>18 Q For the record, what was the year? 11:49:50AM</p> <p>19 You said it was during the 120 days after.</p> <p>20 A I'm going to say it was probably the 11:49:53AM</p> <p>21 end of '85, the beginning of '86.</p> <p>22 Q What were you arrested for in 1986? 11:50:01AM</p> <p>23 A Originally, it was second-degree 11:50:08AM</p> <p>24 assault.</p> <p>25 Q Who was the complainant in that 11:50:12AM</p>	<p>1 TYREE BACON</p> <p>2 A I took an ACD on that and ultimately 11:51:07AM</p> <p>3 dismissed.</p> <p>4 Q Other than for those three occasions, 11:51:16AM</p> <p>5 have you been arrested on any other occasions?</p> <p>6 A Nope. 11:51:22AM</p> <p>7 Q Have you ever been charged with any 11:51:23AM</p> <p>8 other crimes?</p> <p>9 A Nope. 11:51:25AM</p> <p>10 Q You don't recall being charged with 11:51:26AM</p> <p>11 invalid use of a credit card with intent to</p> <p>12 fraud?</p> <p>13 A No, that's never happened. 11:51:34AM</p> <p>14 Q Do you recall ever being charged with 11:51:35AM</p> <p>15 obstruction of government administration in the</p> <p>16 second degree?</p> <p>17 A That may have been part of the '86 11:51:42AM</p> <p>18 case.</p> <p>19 Q Have you ever been registered as a sex 11:51:58AM</p> <p>20 offender?</p> <p>21 A No. 11:52:02AM</p> <p>22 MR. NOVIKOFF: Again, I assume you 11:52:09AM</p> <p>23 have a good-faith basis for that question.</p> <p>24 THE WITNESS: I was just going to ask 11:52:13AM</p> <p>25 you.</p>
Page 106	Page 108
<p>1 TYREE BACON</p> <p>2 matter?</p> <p>3 A A hospital police officer. I don't 11:50:15AM</p> <p>4 recall her name.</p> <p>5 Q What hospital? 11:50:19AM</p> <p>6 A Woodhull. 11:50:21AM</p> <p>7 Q Was that while you were employed by 11:50:24AM</p> <p>8 the New York City EMS?</p> <p>9 A Correct. 11:50:27AM</p> <p>10 Q What was the allegation that was made 11:50:28AM</p> <p>11 in that case?</p> <p>12 A That there was a chain going across 11:50:30AM</p> <p>13 the entrance to the parking lot. I took my car</p> <p>14 and I drove through the chain. The pole that</p> <p>15 was it a attached to hit her in the back,</p> <p>16 causing serious physical injury.</p> <p>17 Q You were arrested for that? 11:50:45AM</p> <p>18 A I was. 11:50:46AM</p> <p>19 Q Was that a misdemeanor or a felony? 11:50:47AM</p> <p>20 A I was originally charged as a felony 11:50:50AM</p> <p>21 but downgraded to third-degree assault, which</p> <p>22 was a misdemeanor.</p> <p>23 Q Were you arraigned on the felony? 11:50:58AM</p> <p>24 A No. 11:51:00AM</p> <p>25 Q How was that case resolved? 11:51:05AM</p>	<p>1 TYREE BACON</p> <p>2 MR. GOODSTADT: Document bearing Bates 11:52:15AM</p> <p>3 No. 7422 says Tyree G. Bacon, III in a</p> <p>4 wanted missing person system search result.</p> <p>5 It says sexual offender registry</p> <p>6 information. The subject identified in the</p> <p>7 filing record with NIC something or other is</p> <p>8 registered as a convicted sexual offender.</p> <p>9 MR. NOVIKOFF: That's all I ask. 11:52:36AM</p> <p>10 That's all I'm asking. It doesn't make it</p> <p>11 right.</p> <p>12 MR. GOODSTADT: I just wanted to 11:52:41AM</p> <p>13 proffer a basis.</p> <p>14 MR. NOVIKOFF: Yeah. What's the 11:52:44AM</p> <p>15 document?</p> <p>16 MR. GOODSTADT: 7422. 11:52:48AM</p> <p>17 BY MR. GOODSTADT: 11:52:53AM</p> <p>18 Q Do you know who Darrell Root is? 11:52:54AM</p> <p>19 A Never heard of him. 11:52:56AM</p> <p>20 Q Ever hear of J. Root? 11:52:57AM</p> <p>21 A No. 11:52:59AM</p> <p>22 Q David Bakken, B-A-K-K-E-N? 11:53:00AM</p> <p>23 A No. 11:53:04AM</p> <p>24 Q Darrell Rhodes? 11:53:04AM</p> <p>25 A No. 11:53:04AM</p>

27 (Pages 105 to 108)

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<p>1 TYREE BACON</p> <p>2 Q Kevin Jacob Rhodes? 11:53:04AM</p> <p>3 A No. 11:53:07AM</p> <p>4 Q Never heard of them? 11:53:07AM</p> <p>5 A No. 11:53:09AM</p> <p>6 Q Now, when did you start your job with 11:53:09AM</p> <p>7 the courts?</p> <p>8 A September of '99. 11:53:21AM</p> <p>9 Q You still have that job at the courts? 11:53:24AM</p> <p>10 A Yes. 11:53:26AM</p> <p>11 Q Have you ever been disciplined from 11:53:26AM</p> <p>12 that job?</p> <p>13 A Nope. 11:53:28AM</p> <p>14 Q And you've been promoted to sergeant? 11:53:30AM</p> <p>15 A I've received two promotions since I'm 11:53:32AM</p> <p>16 on that job.</p> <p>17 Q What was your original position there? 11:53:35AM</p> <p>18 A Uniformed court officer. 11:53:37AM</p> <p>19 Q What court is that in? 11:53:40AM</p> <p>20 A I was originally assigned to the 11:53:41AM</p> <p>21 academy. As a uniformed court officer, I was at</p> <p>22 Queens criminal court.</p> <p>23 Q When did you get your first promotion? 11:53:50AM</p> <p>24 A I took a provisional appointment in 11:53:54AM</p> <p>25 2001 to senior court officer, and I think in</p>	<p>1 TYREE BACON</p> <p>2 to be certified as a court officer other than</p> <p>3 the civil service test that you testified to?</p> <p>4 A Well, part of the entry process was 11:54:48AM</p> <p>5 the civil service exam. Upon passing that, you</p> <p>6 took your medical, psychological, you did your</p> <p>7 background check, physical agility. And I think</p> <p>8 that was the process.</p> <p>9 THE WITNESS: Can I just take a break 11:55:03AM</p> <p>10 to use the restroom?</p> <p>11 MR. GOODSTADT: Let me just ask one 11:55:06AM</p> <p>12 question.</p> <p>13 THE WITNESS: Sure. 11:55:08AM</p> <p>14 BY MR. GOODSTADT: 11:55:08AM</p> <p>15 Q Did you have to take a polygraph in 11:55:08AM</p> <p>16 connection with the --</p> <p>17 A No. 11:55:11AM</p> <p>18 Q -- court position? 11:55:11AM</p> <p>19 A Sorry. 11:55:11AM</p> <p>20 No, I did not. 11:55:12AM</p> <p>21 THE WITNESS: Just a few seconds 11:55:12AM</p> <p>22 break.</p> <p>23 THE VIDEOGRAPHER: The time is 11:56. 11:55:15AM</p> <p>24 We are off the record.</p> <p>25 (Whereupon, a discussion was held off 11:55:43AM</p>
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<p>1 TYREE BACON</p> <p>2 2003 I became permanent off the civil service</p> <p>3 list.</p> <p>4 Q What do you mean by that? 11:54:05AM</p> <p>5 A Originally, it was a provisional 11:54:07AM</p> <p>6 appointment. They hadn't given the test in some</p> <p>7 time. Then they gave the civil service exam and</p> <p>8 got promoted subsequent to the establishment of</p> <p>9 the civil service list.</p> <p>10 Q You took the test? 11:54:17AM</p> <p>11 A Yes. 11:54:18AM</p> <p>12 Q And passed it? 11:54:19AM</p> <p>13 A Yes. 11:54:20AM</p> <p>14 Q And then you testified there was a 11:54:21AM</p> <p>15 subsequent promotion to sergeant?</p> <p>16 A Correct. 11:54:25AM</p> <p>17 Q When was that? 11:54:26AM</p> <p>18 A I got promoted in the end of November 11:54:26AM</p> <p>19 of '07.</p> <p>20 Q And did you have to take a civil 11:54:36AM</p> <p>21 service test for that?</p> <p>22 A I did. 11:54:39AM</p> <p>23 Q Did you pass that test? 11:54:39AM</p> <p>24 A I did. 11:54:41AM</p> <p>25 Q Did you have to take any other tests 11:54:41AM</p>	<p>1 TYREE BACON</p> <p>2 the record.)</p> <p>3 THE VIDEOGRAPHER: The time is 12:04, 12:03:39PM</p> <p>4 and we are back on the record.</p> <p>5 BY MR. GOODSTADT: 12:03:42PM</p> <p>6 Q Mr. Bacon, did you graduate any police 12:03:45PM</p> <p>7 academies?</p> <p>8 A Yes. 12:03:51PM</p> <p>9 Q Which academy did you graduate? 12:03:51PM</p> <p>10 A Suffolk County Police Academy. 12:03:53PM</p> <p>11 Q And what year did you graduate the 12:03:55PM</p> <p>12 Suffolk County Police Academy?</p> <p>13 A 1989. 12:03:58PM</p> <p>14 Q And what was the first police job that 12:04:07PM</p> <p>15 you applied for?</p> <p>16 A Westhampton Beach. That's who 12:04:11PM</p> <p>17 sponsored me through the academy.</p> <p>18 Q Did you work there as a police 12:04:16PM</p> <p>19 officer?</p> <p>20 A I did. 12:04:18PM</p> <p>21 Q For how long? 12:04:18PM</p> <p>22 A That first season. 12:04:20PM</p> <p>23 Q What do you mean by that first season? 12:04:25PM</p> <p>24 A I just worked there the one summer 12:04:26PM</p> <p>25 graduating the police academy.</p>

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1 TYREE BACON

2 **Q So the summer of '89? 12:04:31PM**

3 A Correct. 12:04:32PM

4 **Q What was your title there? 12:04:32PM**

5 A Part-time police officer. 12:04:34PM

6 **Q That was your civil service title? 12:04:40PM**

7 MR. NOVIKOFF: Objection. 12:04:41PM

8 A I believe so. 12:04:42PM

9 **Q Did you have to take any tests other 12:04:44PM**

10 **than passing the academy to be certified for**

11 **that position?**

12 A Yes. 12:04:51PM

13 **Q What tests did you have to take? What 12:04:52PM**

14 **tests did you have to take?**

15 A We had to take the physical agility, 12:04:59PM

16 the medical, the psychological. There was no

17 written exam. That was a resume only position.

18 **Q Did you have to get a background check 12:05:14PM**

19 **done?**

20 A Yes. 12:05:16PM

21 **Q Did you have to take a polygraph? 12:05:17PM**

22 A No. Back then, we did not. 12:05:20PM

23 **Q Were you ever disciplined in that 12:05:23PM**

24 **position in Westhampton Beach?**

25 A No. 12:05:27PM

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1 TYREE BACON

2 **Q Why did you stop working there? 12:05:28PM**

3 A Because I left to go to Ocean Beach. 12:05:29PM

4 **Q Did you apply to any other police 12:05:37PM**

5 **officer positions -- well, strike that.**

6 **The next police officer position you 12:05:42PM**

7 **applied for was Ocean Beach?**

8 A Right. 12:05:46PM

9 **Q And when did you apply for that 12:05:46PM**

10 **position?**

11 A It was after the summer of '89, in 12:05:48PM

12 1990.

13 **Q How did you go a about applying for 12:05:54PM**

14 **that position?**

15 A I went and I submitted a resume. 12:05:58PM

16 **Q Who did you submit a resume to? 12:06:01PM**

17 A At the time, he was a sergeant. Ed 12:06:03PM

18 Paradiso.

19 **Q And how did you know there was an open 12:06:09PM**

20 **position there?**

21 A A bunch of guys that I went to the 12:06:12PM

22 academy with worked for Ocean Beach PD.

23 **Q Who was that? 12:06:17PM**

24 A Bob Galoppi, Tom Wassima, Ray Trypuc, 12:06:19PM

25 Jeff, I want to say Goldman. I can't remember

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1 TYREE BACON

2 Jeff's last name. And Mike Rosato also worked

3 for them.

4 **Q And Paradiso at the time was a 12:06:36PM**

5 **sergeant?**

6 A Yes. 12:06:39PM

7 **Q Who was the chief at the time? 12:06:40PM**

8 A Chief Joe Loeffler, Sr. 12:06:41PM

9 MR. NOVIKOFF: Can we just make it 12:06:45PM

10 clear, I mean, that there's a distinction --

11 MR. GOODSTADT: I'm going to ask him 12:06:49PM

12 right now.

13 MR. NOVIKOFF: Okay. 12:06:51PM

14 MR. GOODSTADT: I'm going to ask him 12:06:51PM

15 right now.

16 BY MR. GOODSTADT: 12:06:51PM

17 **Q Does Chief Joe Loeffler senior have a 12:06:52PM**

18 **relationship to Joe Loeffler, Jr., the current**

19 **mayor of Ocean Beach?**

20 A Yes. 12:07:03PM

21 **Q And what was the relationship? 12:07:03PM**

22 A He was his father. 12:07:04PM

23 **Q And senior has since passed away? 12:07:05PM**

24 A He has. 12:07:08PM

25 **Q Who did you interview with for that 12:07:08PM**

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1 TYREE BACON

2 **position?**

3 A I interviewed with Sergeant Paradiso. 12:07:12PM

4 **Q Anyone else? 12:07:14PM**

5 A I met the chief, he came in, walked 12:07:15PM

6 out, and Eddie did the interview.

7 **Q And who offered you the job? 12:07:24PM**

8 A Eddie. 12:07:27PM

9 **Q At the interview? 12:07:28PM**

10 A Yes. 12:07:32PM

11 **Q On the spot? 12:07:32PM**

12 A Yes. 12:07:33PM

13 **Q Did the chief have any role in 12:07:33PM**

14 **offering you the job?**

15 A He gave it his blessing. 12:07:39PM

16 **Q What do you mean by he gave it his 12:07:41PM**

17 **blessing?**

18 A Chief was out that day doing other 12:07:43PM

19 things in the village. I don't recall what it

20 was. But Eddie did the interview, consulted

21 with the chief and, you know.

22 **Q Did Paradiso at that time, as a 12:07:51PM**

23 **sergeant, have authority to make a hiring**

24 **without getting the blessing of the chief?**

25 A I have no idea. 12:08:00PM

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1 TYREE BACON

2 **Q What position were you hired for? 12:08:02PM**

3 A Part-time or seasonal police 12:08:04PM

4 officer -- actually, it was part-time.

5 **Q Part-time? 12:08:08PM**

6 A Yeah. 12:08:08PM

7 **Q What's the difference between 12:08:09PM**

8 **part-time and seasonal?**

9 A Part-time you can work no more than 12:08:12PM

10 20 hours for the entire year -- you know,

11 20 hours a week for the entire year. Seasonal

12 is pretty much unlimited hours from a couple of

13 weeks before Memorial Day to a couple of weeks

14 after Labor Day.

15 **Q And that's the season, a couple of 12:08:30PM**

16 **weeks before Memorial Day to a couple weeks**

17 **after Labor Day?**

18 A Yes. 12:08:36PM

19 **Q So you were hired originally as a 12:08:39PM**

20 **part-timer?**

21 A It may have been seasonal. I'm not 12:08:41PM

22 certain what they classified me as.

23 **Q Do you recall what your starting 12:08:46PM**

24 **salary was there?**

25 A It was like \$7 or 7.50 an hour. 12:08:50PM

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1 TYREE BACON

2 **Q Did you have to take any tests to be 12:08:52PM**

3 **certified to work as a police officer in Ocean**

4 **Beach?**

5 A No. 12:08:59PM

6 MR. NOVIKOFF: Originally? 12:09:00PM

7 MR. GOODSTADT: In 1990. 12:09:02PM

8 A No. It was considered a lateral 12:09:03PM

9 transfer from one department to another.

10 **Q Did you take any additional tests? 12:09:09PM**

11 A No. 12:09:11PM

12 **Q And then you worked starting the 12:09:16PM**

13 **season of '90? Was that your first season there**

14 **at Ocean Beach?**

15 A Yeah. It was -- I want to say it was 12:09:24PM

16 like April of -- I'm not certain. It was before

17 Memorial Day weekend.

18 **Q And have you worked there continuously 12:09:33PM**

19 **from that day until this one?**

20 A No. 12:09:38PM

21 **Q So there was a break in your service? 12:09:39PM**

22 A There was. 12:09:40PM

23 **Q What was the break in your service? 12:09:41PM**

24 A I left in '93 and then returned back 12:09:43PM

25 to Ocean Beach in '99.

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1 TYREE BACON

2 **Q So between '90 and '93, when you 12:09:51PM**

3 **worked there as either seasonal or part-time,**

4 **were any of the plaintiffs working at Ocean**

5 **Beach at the time?**

6 A I believe Carter and Snyder at one 12:10:00PM

7 point were working there.

8 **Q Did you ever work with Carter and 12:10:07PM**

9 **Snyder during your first stint at the Ocean**

10 **Beach Police Department?**

11 A Yes. 12:10:11PM

12 **Q Did you work with them frequently? 12:10:12PM**

13 A No. Occasionally. 12:10:14PM

14 **Q What tours did you work during your 12:10:15PM**

15 **first time at Ocean Beach Police Department?**

16 A I worked predominantly 4 to 12s. 12:10:21PM

17 **Q Did that change at all during that 12:10:26PM**

18 **first time from '90 to '93?**

19 A It always changed. Predominantly, I 12:10:35PM

20 worked 4 to 12s then.

21 **Q Were you disciplined at all between 12:10:39PM**

22 **'90 and '93, while you were employed at the**

23 **Ocean Beach Police Department?**

24 A No, I was not. 12:10:45PM

25 **Q When you took a break in service from 12:10:46PM**

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1 TYREE BACON

2 **the Ocean Beach Police Department, did your**

3 **BMP-TC certificate expire?**

4 A It did not. 12:10:57PM

5 **Q How come? 12:10:58PM**

6 MR. NOVIKOFF: Objection. Go ahead. 12:10:58PM

7 A Because I left there and I worked for 12:11:00PM

8 Islip Town Park Rangers as a seasonal park

9 ranger. I worked a slew of jobs in between

10 that.

11 **Q And your first job was Islip park 12:11:09PM**

12 **ranger?**

13 A Right. 12:11:15PM

14 **Q That was a part-time position or 12:11:16PM**

15 **seasonal?**

16 A That was seasonal. 12:11:18PM

17 **Q And how long did you work that job 12:11:19PM**

18 **for?**

19 A A couple of months. 12:11:21PM

20 **Q That was in '93? 12:11:23PM**

21 A I believe so. 12:11:25PM

22 **Q Why did you stop working there? 12:11:26PM**

23 A Because I left for Riverhead PD as a 12:11:28PM

24 part-time police officer.

25 **Q Were you ever disciplined in the Islip 12:11:37PM**

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1 TYREE BACON
2 park ranger position?
3 A No. 12:11:40PM
4 Q Did you leave there voluntarily? 12:11:41PM
5 A Yes. 12:11:42PM
6 Q And your next job was Riverhead Police 12:11:43PM
7 Department as part-time police officer?
8 A Yes. 12:11:47PM
9 Q And when did you have that position? 12:11:47PM
10 A From '93 through -- I don't recall if 12:11:49PM
11 it was '94 or '95.
12 Q Did you have to take any additional 12:11:56PM
13 tests to be certified to work in that police
14 department?
15 A I did not. 12:12:02PM
16 Q You didn't have to take a polygraph? 12:12:02PM
17 A No. 12:12:04PM
18 Q When did you fail the polygraph in 12:12:05PM
19 Riverhead?
20 MR. NOVIKOFF: Objection. Form. 12:12:08PM
21 When were you advised that you failed 12:12:09PM
22 the polygraph?
23 A That was back when I was processing 12:12:12PM
24 for a full-time position with them.
25 Q What year was that? 12:12:17PM

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1 TYREE BACON
2 A '93 or '94. 12:12:19PM
3 Q Okay. So you worked as a part-timer 12:12:21PM
4 at Riverhead from '93 to '94 or '95ish?
5 A Correct. 12:12:27PM
6 Q And then you were processing to become 12:12:28PM
7 a full-time officer there?
8 A Yes. 12:12:33PM
9 Q What do you mean processing to become 12:12:34PM
10 a full-time officer?
11 A They had a full-time slot, and there 12:12:36PM
12 was like five or six people that they were
13 interviewing to fill the slot that came off of
14 the Suffolk County Police list.
15 Q And you were one of the interviewees? 12:12:45PM
16 A Yes. 12:12:48PM
17 Q Did you have to take any tests to get 12:12:48PM
18 on that list? Was there another civil service
19 test administered?
20 A You took the Suffolk County Police 12:12:54PM
21 civil service exam.
22 Q Did you pass that test? 12:12:57PM
23 A Yes. 12:12:58PM
24 Q That was a written test? 12:12:59PM
25 A Yes. 12:13:00PM

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1 TYREE BACON
2 Q When did you pass that? 12:13:01PM
3 A In that time frame. I don't recall. 12:13:02PM
4 Q So just so I understand, you took the 12:13:03PM
5 test, you make the list, a slot opens up and
6 you're one of five people that were interviewed
7 for that position?
8 A Five or six, yes. 12:13:16PM
9 Q Now, I believe you testified that you 12:13:18PM
10 took a polygraph in connection with that
11 processing; is that correct?
12 A I did. 12:13:25PM
13 Q Why did you take a polygraph at that 12:13:25PM
14 time?
15 MR. NOVIKOFF: Objection. 12:13:28PM
16 You can answer. 12:13:28PM
17 A You have to do the whole process over 12:13:28PM
18 for the full-time position.
19 Q What do you mean by the whole process? 12:13:31PM
20 A Medical, background, psychological, 12:13:33PM
21 physical agility, from part-time to full-time
22 you had to do that.
23 Q And the polygraph, right? 12:13:47PM
24 A Correct. 12:13:48PM
25 Q How did you learn you needed to take a 12:13:50PM

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1 TYREE BACON
2 polygraph for that position?
3 A Got a notice from civil service. 12:13:54PM
4 Q Where did you take that polygraph? 12:13:59PM
5 A Suffolk County Police Headquarters. 12:14:01PM
6 Q Did you need to take a polygraph for a 12:14:13PM
7 part-time position at that time if you had come
8 in new?
9 A At that time, no. 12:14:18PM
10 Q Did there come a point in time where 12:14:19PM
11 the part-time position required a polygraph for
12 a police officer position?
13 A I believe it does now, yes. 12:14:26PM
14 Q When did that come in? 12:14:28PM
15 MR. NOVIKOFF: Objection. 12:14:29PM
16 A I don't know. 12:14:30PM
17 Q So it's your understanding that at 12:14:30PM
18 that point in time, in '94 or '95, that only
19 full-time police officers needed to take a
20 polygraph?
21 MR. NOVIKOFF: Objection. 12:14:39PM
22 A Yes. 12:14:39PM
23 Q Do you know why Suffolk County 12:14:40PM
24 requires a polygraph?
25 MR. NOVIKOFF: Objection. 12:14:42PM

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1 TYREE BACON

2 A No idea. 12:14:43PM

3 **Q Do you have any belief as to why?** 12:14:45PM

4 A No idea. 12:14:47PM

5 **Q So you take the polygraph -- well,** 12:14:52PM

6 **strike that.**

7 **Did you pass all the other tests?** 12:14:54PM

8 A Yes. 12:14:56PM

9 **Q The medical, the background, the** 12:14:56PM

10 **physical agility and psychological?**

11 A Yes. 12:15:01PM

12 **Q And the polygraph you took last?** 12:15:02PM

13 A No, I took the polygraph somewhere in 12:15:04PM

14 between all of that. I don't remember the exact

15 order.

16 **Q Did you take any other tests after you** 12:15:09PM

17 **learned you failed the polygraph?**

18 A Yes. 12:15:13PM

19 **Q Why would you take the other tests** 12:15:14PM

20 **after you failed the polygraph?**

21 A Because I could've appealed it. 12:15:18PM

22 **Q Did you appeal it?** 12:15:20PM

23 A No, I did not. 12:15:21PM

24 **Q Why not?** 12:15:22PM

25 A Because I left. I left working for 12:15:23PM

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1 TYREE BACON

2 them voluntarily.

3 **Q When was that?** 12:15:26PM

4 A That same time period. 12:15:27PM

5 **Q '94 or '95?** 12:15:29PM

6 A Yes. 12:15:30PM

7 **Q Okay. What was your next job after** 12:15:33PM

8 **that?**

9 A Islip town harbor police. 12:15:38PM

10 **Q What was your title there?** 12:15:42PM

11 A I don't recall if it was bay constable 12:15:45PM

12 or harbormaster.

13 **Q Did you have to take any civil service** 12:15:49PM

14 **tests for that position?**

15 A No. 12:15:52PM

16 **Q Did you have to go through the battery** 12:15:53PM

17 **of tests again?**

18 A No. 12:15:56PM

19 **Q Was that a police position?** 12:15:57PM

20 A It's a peace offer position. 12:15:59PM

21 **Q Peace officer. What's the difference** 12:16:01PM

22 **between peace officer and police officer?**

23 MR. NOVIKOFF: Objection. 12:16:06PM

24 You can answer. 12:16:06PM

25 A Yeah. Pretty much your statutory 12:16:07PM

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1 TYREE BACON

2 arrest powers regarding pursuing somebody

3 outside of state.

4 **Q That's the only difference?** 12:16:15PM

5 A And arrest -- executing search 12:16:16PM

6 warrants.

7 **Q So your understanding of the** 12:16:20PM

8 **difference is pursuing somebody out of New York**

9 **State as well as executing search warrants?**

10 MR. NOVIKOFF: Objection. 12:16:29PM

11 A Correct. 12:16:30PM

12 **Q Is your understanding there are any** 12:16:31PM

13 **other differences between a police officer and a**

14 **peace offer?**

15 A There may be a couple of others, but 12:16:36PM

16 none that I can recall.

17 **Q How did you go about getting the job** 12:16:41PM

18 **at Islip town harbor?**

19 A I submitted a resume to the chief at 12:16:46PM

20 Islip harbor police and also filled out an

21 application and dropped that off at the town

22 personnel office.

23 **Q Who was the chief at Islip harbor** 12:17:03PM

24 **police at the time?**

25 A Alan Loeffler. 12:17:08PM

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1 TYREE BACON

2 **Q Does Alan Loeffler have any** 12:17:11PM

3 **relationship to Joe Loeffler Sr., the chief, and**

4 **Joe Loeffler, Jr., the mayor?**

5 MR. NOVIKOFF: Objection. 12:17:21PM

6 To your knowledge. 12:17:21PM

7 A Yes. 12:17:22PM

8 **Q What's your understanding of the** 12:17:23PM

9 **relationship?**

10 A He is the son of Joe Loeffler, Sr., 12:17:24PM

11 the brother of Joe Loeffler, Jr.

12 **Q Did Alan Loeffler work at all at Ocean** 12:17:31PM

13 **Beach with you?**

14 A He worked there for a while. I never 12:17:34PM

15 worked with Alan. He worked shifts opposite of

16 mine.

17 **Q What position -- he was a police** 12:17:41PM

18 **officer there?**

19 A He was a part-time or seasonal police 12:17:43PM

20 officer.

21 **Q And your job at Islip town harbor, did** 12:17:50PM

22 **you report to Alan Loeffler?**

23 A I did. 12:17:55PM

24 **Q Were you ever disciplined there?** 12:17:56PM

25 A No. 12:17:57PM

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<p>1 TYREE BACON</p> <p>2 Q Were you friends with Alan Loeffler? 12:17:59PM</p> <p>3 A Professionally. 12:18:01PM</p> <p>4 Q Did you ever socialize with him 12:18:02PM</p> <p>5 outside of work?</p> <p>6 A I invited him to my wedding when I got 12:18:05PM</p> <p>7 married in '96.</p> <p>8 Q Did you invite any other Loefflers to 12:18:09PM</p> <p>9 your wedding?</p> <p>10 A No. 12:18:13PM</p> <p>11 Q Other than for your wedding, did you 12:18:14PM</p> <p>12 ever socialize with Alan Loeffler outside of --</p> <p>13 A No. 12:18:20PM</p> <p>14 Q Did he attend your wedding? 12:18:20PM</p> <p>15 A Yes, he did, him and his wife. 12:18:22PM</p> <p>16 Q And that was in '96? 12:18:26PM</p> <p>17 A Yes. 12:18:27PM</p> <p>18 Q So you were working at Islip town 12:18:28PM</p> <p>19 harbor at the time?</p> <p>20 A Yes. 12:18:31PM</p> <p>21 Q Did you work with Alan Loeffler in 12:18:31PM</p> <p>22 Ocean Beach before the harbor job or was it when</p> <p>23 you went back?</p> <p>24 A It was before the time frame that he 12:18:41PM</p> <p>25 worked.</p>	<p>1 TYREE BACON</p> <p>2 A '96 or '97. I don't recall. 12:19:38PM</p> <p>3 Q And that was until January of '99, 12:19:40PM</p> <p>4 when you were put on suspension?</p> <p>5 A Correct. 12:19:44PM</p> <p>6 Q And other than for what you've 12:19:46PM</p> <p>7 testified to, were you ever disciplined at</p> <p>8 MacArthur Airport?</p> <p>9 A No. 12:19:53PM</p> <p>10 Q What was your next job after MacArthur 12:19:53PM</p> <p>11 Airport?</p> <p>12 A I left MacArthur, and then that's when 12:19:58PM</p> <p>13 I came back to Ocean Beach in July of '99.</p> <p>14 Q Did you have any jobs between January 12:20:08PM</p> <p>15 of '99 and July of '99, other than for being on</p> <p>16 suspension at MacArthur Airport?</p> <p>17 A I had my full-time job working at the 12:20:15PM</p> <p>18 air base as an airport firefighter.</p> <p>19 Q Did your BMP-TC certificate expire 12:20:22PM</p> <p>20 during that break between the MacArthur Airport</p> <p>21 and going back to Ocean Beach?</p> <p>22 A No, it did not. 12:20:32PM</p> <p>23 Q Why not? 12:20:33PM</p> <p>24 MR. NOVIKOFF: Objection. 12:20:34PM</p> <p>25 A Because I went from one agency to 12:20:35PM</p>
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<p>1 TYREE BACON</p> <p>2 Q So you had known Alan Loeffler prior 12:18:44PM</p> <p>3 to the harbor job?</p> <p>4 A Yes. 12:18:48PM</p> <p>5 Q He was a police officer in Ocean 12:18:48PM</p> <p>6 Beach, you just never worked the same tours?</p> <p>7 A Correct. 12:18:52PM</p> <p>8 Q How long did you work at Islip town 12:18:58PM</p> <p>9 harbor?</p> <p>10 A I think I worked there about a year. 12:19:01PM</p> <p>11 Q Why did you leave there? 12:19:03PM</p> <p>12 A Because then I went and I worked at 12:19:05PM</p> <p>13 MacArthur Airport.</p> <p>14 Q Did you leave there voluntarily from 12:19:12PM</p> <p>15 the harbor job?</p> <p>16 A I did. 12:19:17PM</p> <p>17 Q Did your BMP-TC certificate expire at 12:19:17PM</p> <p>18 any time between leaving Ocean Beach and leaving</p> <p>19 the harbor job?</p> <p>20 A It did not. 12:19:27PM</p> <p>21 Q And then you got the job at MacArthur 12:19:28PM</p> <p>22 Airport that you testified to already, correct?</p> <p>23 A Correct. 12:19:34PM</p> <p>24 Q And that was -- what year did you 12:19:34PM</p> <p>25 start there?</p>	<p>1 TYREE BACON</p> <p>2 another. It was less than a one-year break.</p> <p>3 Q So your understanding is your BMP-TC 12:20:42PM</p> <p>4 certificate remains active for a period -- any</p> <p>5 period up to a one-year break?</p> <p>6 A Correct. 12:20:51PM</p> <p>7 Q What is the basis of that 12:20:51PM</p> <p>8 understanding?</p> <p>9 A From what I understand through the 12:20:55PM</p> <p>10 various jobs I've worked, including my position</p> <p>11 as a state court officer.</p> <p>12 Q When you went back to Ocean Beach, 12:21:06PM</p> <p>13 that was 1999?</p> <p>14 A Correct. 12:21:10PM</p> <p>15 Q How did you go about applying for that 12:21:13PM</p> <p>16 job?</p> <p>17 A I called up to see if they had any 12:21:16PM</p> <p>18 open slots. I don't recall who I spoke with.</p> <p>19 They said submit a resume and do the civil</p> <p>20 service application form. I did that, I</p> <p>21 submitted it and started working shortly</p> <p>22 thereafter.</p> <p>23 Q Okay. During your first stint with 12:21:36PM</p> <p>24 the Ocean Beach Police Department, was George</p> <p>25 Hesse employed there?</p>

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1 TYREE BACON

2 A He was not. 12:21:43PM

3 Q How about when you got back in '99, 12:21:44PM

4 was he employed there?

5 A He was. 12:21:47PM

6 Q What was his title? 12:21:48PM

7 A He was a sergeant. 12:21:49PM

8 Q Do you know whether George Hesse ever 12:21:53PM

9 passed a sergeant's test?

10 A I have no idea. 12:21:57PM

11 Q Did you ever ask him? 12:21:58PM

12 A No. 12:21:59PM

13 Q Did you ever hear that he did not pass 12:21:59PM

14 the test?

15 A No, I did not. 12:22:02PM

16 Q Do you know whether George Hesse ever 12:22:05PM

17 took the sergeant's test?

18 A I have no idea. 12:22:08PM

19 Q Do you know if George Hesse ever took 12:22:10PM

20 the chief's test?

21 A I have no idea. 12:22:13PM

22 Q You don't know whether he passed it? 12:22:14PM

23 MR. NOVIKOFF: Objection. If he 12:22:16PM

24 doesn't know whether he took the test, he

25 doesn't know whether he passed it.

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1 TYREE BACON

2 You can answer. 12:22:21PM

3 A If I don't know that he took it, then 12:22:21PM

4 there's no way I would know if he passed it.

5 Q Did you ever hear that he didn't pass 12:22:27PM

6 it?

7 A No. 12:22:29PM

8 Q So just to time frame now. When in 12:22:30PM

9 1999 did you make that call over to the Ocean

10 Beach Police Department?

11 A Sometime prior to me working for them. 12:22:41PM

12 I started working -- I was there for Fourth of

13 July weekend, so it was sometime before that

14 that I called them and that I, you know, did the

15 paperwork with them.

16 Q You worked the Fourth of July weekend 12:22:54PM

17 in '99?

18 A I believe I did. 12:22:57PM

19 Q Are you sure about that? 12:23:01PM

20 A No, I'm not sure. 12:23:02PM

21 Q Who did you interview with for that 12:23:10PM

22 position?

23 A Ed Paradiso. 12:23:13PM

24 Q What was Ed Paradiso's title at the 12:23:15PM

25 time?

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1 TYREE BACON

2 A Chief. 12:23:17PM

3 Q Did you interview with anyone else? 12:23:19PM

4 A No. 12:23:22PM

5 Q And Paradiso was the sergeant your 12:23:23PM

6 first time around?

7 A Correct. 12:23:26PM

8 Q Did you remain in contact with 12:23:26PM

9 Paradiso during your six-year break?

10 A No, I did not. 12:23:30PM

11 Q Are you friends with Ed Paradiso? 12:23:32PM

12 A No. 12:23:34PM

13 Q Do you ever socialize with him outside 12:23:34PM

14 of work?

15 A I was at a party for somebody that he 12:23:37PM

16 happened to be at. We sat at the same table, we

17 had a couple of drinks, exchanged niceties,

18 shared a meal.

19 Q But you didn't plan to meet him there, 12:23:49PM

20 did you?

21 A No. 12:23:51PM

22 Q Did you ever E-mail with Ed Paradiso? 12:23:54PM

23 A I did. 12:23:56PM

24 Q How many times? 12:23:57PM

25 A While I was working there, almost 12:23:59PM

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1 TYREE BACON

2 weekly. That's how I gave him my availability

3 schedule.

4 Q How about when you weren't working 12:24:06PM

5 there, did you ever E-mail him?

6 A No. 12:24:09PM

7 Q How about since he's left on 12:24:10PM

8 disability?

9 A I haven't had any contact with him. I 12:24:12PM

10 saw him once in passing.

11 Q What's your E-mail address? 12:24:19PM

12 A Tyree3rd@aol.com. 12:24:21PM

13 MR. NOVIKOFF: I would hope that that 12:24:27PM

14 information does not get disclosed without

15 some notice. When I say disclosed, I mean

16 filed.

17 MR. GOODSTADT: You can designate that 12:24:36PM

18 part of the transcript confidential.

19 MR. NOVIKOFF: Okay. So I'm going to 12:24:39PM

20 designate that part of the transcript

21 confidential.

22 BY MR. GOODSTADT: 12:24:44PM

23 Q Do you know what Paradiso's E-mail 12:24:44PM

24 address is?

25 A No, I don't. 12:24:47PM

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<p>1 TYREE BACON</p> <p>2 Q How about George Hesse, do you E-mail 12:24:48PM</p> <p>3 with him?</p> <p>4 A Yes. 12:24:52PM</p> <p>5 Q How frequently do you E-mail with 12:24:52PM</p> <p>6 George Hesse?</p> <p>7 A Same thing, my schedule for 12:24:55PM</p> <p>8 availability.</p> <p>9 Q Do you ever E-mail George Hesse 12:24:58PM</p> <p>10 outside of your schedule for availability?</p> <p>11 A No. 12:25:01PM</p> <p>12 Q Do you ever E-mail any jokes with 12:25:01PM</p> <p>13 George Hesse?</p> <p>14 A No. 12:25:04PM</p> <p>15 Q Do you E-mail George Hesse from your 12:25:09PM</p> <p>16 home computer or from the police station</p> <p>17 computer or both?</p> <p>18 A I've done it from my home computer and 12:25:15PM</p> <p>19 also the police station computer.</p> <p>20 Q How many computers are in the police 12:25:19PM</p> <p>21 station?</p> <p>22 A Three. Three that I'm aware of. 12:25:22PM</p> <p>23 Q Have there always been three since 12:25:24PM</p> <p>24 2006?</p> <p>25 A I don't recall. 12:25:30PM</p>	<p>1 TYREE BACON</p> <p>2 A No, that was open. There was no 12:26:36PM</p> <p>3 log-on for anybody to -- you know, you just get</p> <p>4 right into the computer.</p> <p>5 Q From '06 to the present, that's the 12:26:45PM</p> <p>6 case?</p> <p>7 A I haven't worked there in a while, so 12:26:48PM</p> <p>8 I couldn't tell you about the present. But</p> <p>9 that's how it was prior to '06.</p> <p>10 Q So from '06 to the last time you were 12:26:56PM</p> <p>11 there? And I know you had a tour in Iraq in</p> <p>12 between that.</p> <p>13 A Yeah. I couldn't tell you today; but 12:27:03PM</p> <p>14 prior to that, I don't recall.</p> <p>15 Q Did you ever log on to the Internet 12:27:09PM</p> <p>16 from the computer at the police station?</p> <p>17 A I have. 12:27:13PM</p> <p>18 Q Let's go back to when you came back in 12:27:14PM</p> <p>19 '99. Did you have to take any tests to be</p> <p>20 certified as a police officer at the time?</p> <p>21 A Not at '99, but later on I did. 12:27:22PM</p> <p>22 Q What do you mean by that? 12:27:25PM</p> <p>23 A There was a time when I got a 12:27:27PM</p> <p>24 notification from civil service to report for a</p> <p>25 physical agility exam.</p>
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<p>1 TYREE BACON</p> <p>2 Q When you sign on to the police 12:25:34PM</p> <p>3 department computers, do you need a password?</p> <p>4 A No. 12:25:42PM</p> <p>5 Q So nothing would identify a specific 12:25:43PM</p> <p>6 individual as the user?</p> <p>7 A Not to get into the general computer. 12:25:48PM</p> <p>8 To get into some of the programs, like the</p> <p>9 arrest processing program, the report-writing</p> <p>10 program, you need to have a log-on. What else</p> <p>11 is there? To run motor vehicle checks, warrant</p> <p>12 checks, you need to have a log-on.</p> <p>13 Q Is a log-on specific to the individual 12:26:08PM</p> <p>14 or is there a general Ocean Beach Police</p> <p>15 Department log-on and password?</p> <p>16 MR. NOVIKOFF: Presently or at any 12:26:14PM</p> <p>17 time?</p> <p>18 MR. GOODSTADT: Between '06 and now. 12:26:16PM</p> <p>19 MR. NOVIKOFF: Okay. 12:26:19PM</p> <p>20 A For the arrest paperwork, the program 12:26:20PM</p> <p>21 that does the field reports and that, yes, it's</p> <p>22 an individual log-on. For the warrant checks,</p> <p>23 I'm not certain, because I don't have the</p> <p>24 password privilege for that.</p> <p>25 Q How about to use the Internet? 12:26:34PM</p>	<p>1 TYREE BACON</p> <p>2 Q When was that? 12:27:33PM</p> <p>3 A 2004. 12:27:35PM</p> <p>4 Q How did you get that notice? 12:27:38PM</p> <p>5 A I got a letter in the mail. 12:27:39PM</p> <p>6 Q Was it from civil service or was it 12:27:41PM</p> <p>7 from someone at Ocean Beach?</p> <p>8 A No, it was from civil service. 12:27:45PM</p> <p>9 Q And it was for a physical agility? 12:27:47PM</p> <p>10 A Yes. 12:27:49PM</p> <p>11 Q Do you know why you needed to take a 12:27:50PM</p> <p>12 physical agility test in 2004?</p> <p>13 A There was apparently a problem with 12:27:54PM</p> <p>14 Chief Paradiso never notified civil service that</p> <p>15 I was back to working for them; and then when</p> <p>16 they were notified, they said that I was</p> <p>17 uncertified at that point from civil service and</p> <p>18 I had to reestablish that. So I started the</p> <p>19 civil service process.</p> <p>20 Q That was in 2004? 12:28:17PM</p> <p>21 A Yes. 12:28:19PM</p> <p>22 Q When in 2004 was that? 12:28:19PM</p> <p>23 A I think it was like April, beginning 12:28:22PM</p> <p>24 of the year.</p> <p>25 Q Were you working another job at that 12:28:26PM</p>

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1 TYREE BACON

2 time?

3 A I was working for the courts. 12:28:29PM

4 Q And the court, is that a police 12:28:32PM

5 officer position?

6 A Peace officer position. 12:28:35PM

7 Q Peace officer. 12:28:36PM

8 You weren't working any other police 12:28:44PM

9 jobs, were you?

10 A No. 12:28:47PM

11 Q So it's your understanding -- I 12:28:47PM

12 believe you testified to this -- that civil

13 service deemed you to be uncertified at that

14 time?

15 A Well, there was a question as to there 12:28:55PM

16 being a lapse in service since the chief did not

17 notify them that I was working from '99 on.

18 Q How did you learn that that was the 12:29:08PM

19 reason why you had to take these tests?

20 A Because I called civil service to find 12:29:12PM

21 out what this was all about.

22 Q Who did you speak with in civil 12:29:16PM

23 service?

24 A At one point, I spoke with Allison. I 12:29:18PM

25 believe I spoke -- I don't recall if it was Stan

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1 TYREE BACON

2 Pelk or Alan Schneider also.

3 Q What's Allison's last name? 12:29:31PM

4 A I have no idea. 12:29:33PM

5 Q Is it Allison Chester or Allison 12:29:34PM

6 Sanchez?

7 A I think at the time it was Allison 12:29:40PM

8 Chester.

9 Q What was her role in all of this? 12:29:42PM

10 MR. NOVIKOFF: Objection. Objection. 12:29:44PM

11 Only what -- no foundation that he knows

12 what her role is other than his interaction

13 with her.

14 BY MR. GOODSTADT: 12:29:54PM

15 Q What is your understanding of what her 12:29:54PM

16 role was?

17 A I called her. She forwarded my 12:29:56PM

18 question to whoever -- I don't recall who it

19 was, whether it was Stan or Al Schneider.

20 Q Why did you call her as opposed to any 12:30:04PM

21 of the number of hundreds of other people who

22 work in civil service?

23 A I dialed the number at civil service 12:30:10PM

24 that was on my paper, and that's the person that

25 answered the phone.

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1 TYREE BACON

2 Q Did she sign a letter that was sent to 12:30:15PM

3 you?

4 A I don't recall. 12:30:18PM

5 Q And prior to that phone call in '04 -- 12:30:21PM

6 did you call her in '04?

7 A Yeah. It was right after I got the 12:30:28PM

8 notification.

9 Q Prior to that time, had you ever had 12:30:31PM

10 any interaction with Allison Chester?

11 A No. 12:30:36PM

12 Q Who's Stan Pelk? 12:30:37PM

13 A He's director or assistant director. 12:30:40PM

14 I'm not sure.

15 Q Have you ever had any interaction with 12:30:44PM

16 Mr. Pelk?

17 A Spoke to him on the phone at one 12:30:48PM

18 point.

19 Q About what? 12:30:50PM

20 A Something to do with civil service, 12:30:51PM

21 you know, regarding this.

22 Q What did you speak to him about? 12:30:55PM

23 A Why I was taking this exam when I was 12:30:58PM

24 previously qualified and certified. And like I

25 said, I'm not sure if it was Stan or Alan

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1 TYREE BACON

2 Schneider. But I spoke to her, and the call got

3 forked to somebody.

4 Q Who is Alan Schneider? 12:31:17PM

5 A He was the director of civil service. 12:31:19PM

6 Q When did you speak with either 12:31:23PM

7 Mr. Pelk or Mr. Schneider?

8 A Moments after I spoke to Allison. She 12:31:27PM

9 transferred the phone call.

10 Q That was in '04, as well? 12:31:31PM

11 A Yes. 12:31:33PM

12 Q Had you spoken to either of them 12:31:35PM

13 previous to that phone call?

14 A I spoke with Stan Pelk when I was 12:31:39PM

15 suspended from Islip airport..

16 Q Other than for your suspension from 12:31:44PM

17 Islip airport, did you speak with Mr. Pelk at

18 any other time?

19 A No. 12:31:51PM

20 Q Did you ever speak to Schneider, if he 12:31:51PM

21 was the one you spoke to, at any other time

22 other than that phone call?

23 A I may have spoken to him also in that 12:31:54PM

24 same time frame with Islip airport.

25 Q What was his response when you asked 12:32:00PM

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1 **TYREE BACON**

2 **him why do I have to take this test when I've**

3 **previous been certified, authorized, et cetera?**

4 A The sum and substance of the 12:32:07PM

5 conversation was basically that Chief Paradiso

6 dropped the ball in not getting the payroll

7 certified and not notifying civil service of

8 their current employment rosters.

9 **Q So was it just you that had to take 12:32:28PM**

10 **the test over or was it everybody that wasn't**

11 **certified?**

12 MR. NOVIKOFF: Objection. 12:32:35PM

13 To the extent you know. 12:32:35PM

14 A To the extent that I know, there was 12:32:37PM

15 like six of us, seven of us that showed up to

16 take the physical agility. Prior to that, I

17 didn't know who did and who didn't.

18 **Q Who took it at the same time as you? 12:32:49PM**

19 A Myself, the Bosettis, Arnie Hardman, 12:32:53PM

20 Tommy Shaw, Pat Cherry. There's another

21 individual, used to be a city cop, worked for

22 the state parks. I can't remember his name.

23 And there may have been one or two other people.

24 It was like six or seven people total.

25 **Q Was Paradiso there? 12:33:17PM**

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1 **TYREE BACON**

2 A Yes, when we went to take our 12:33:19PM

3 physical. The other individual's time was John

4 Dyer.

5 **Q Why did Paradiso join you? 12:33:26PM**

6 MR. NOVIKOFF: Objection. 12:33:28PM

7 A He didn't join us to take the exam. 12:33:29PM

8 He just came. He showed up. I have no idea

9 why.

10 **Q Did you, prior to arriving for your 12:33:36PM**

11 **physical agility test -- when did you take the**

12 **physical agility test? When was this?**

13 A I think that was April of '04, maybe 12:33:44PM

14 May of '04.

15 **Q And prior to going to take that 12:33:49PM**

16 **physical agility test, had you spoken to anyone**

17 **in the police department about the fact that you**

18 **had to do that?**

19 A I think I may have spoken with Eddie. 12:33:58PM

20 I can't be certain. He said, well, that's what

21 civil service is requiring. You know, typical

22 run -- you know, didn't get a firm answer.

23 That's what civil service wants, that's what

24 you're gonna do.

25 **Q Just so we're clear, when you say 12:34:13PM**

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1 **TYREE BACON**

2 **Eddie, you mean Ed Paradiso?**

3 A Ed Paradiso. 12:34:17PM

4 **Q Not Ed Carter? 12:34:18PM**

5 A Correct. 12:34:19PM

6 **Q Did you speak with the Bosettis that 12:34:20PM**

7 **you had to take this test?**

8 A No. 12:34:22PM

9 **Q Did you speak with Hardman? 12:34:23PM**

10 A No. 12:34:24PM

11 **Q How about Shaw? 12:34:25PM**

12 A No. 12:34:26PM

13 **Q Pat Cherry -- you said Pat Cherry. 12:34:26PM**

14 **You're referring to senior?**

15 A Senior. 12:34:29PM

16 **Q Did you speak with him about that? 12:34:30PM**

17 A Nope. 12:34:31PM

18 **Q Did you speak with Dyer about having 12:34:32PM**

19 **to take this test?**

20 A Nope. 12:34:36PM

21 **Q At the time you learned you had to 12:34:36PM**

22 **take the physical agility test, did you learn**

23 **you to had to take the full battery of tests or**

24 **was it just the physical agility?**

25 A I had no idea what I had to do. 12:34:45PM

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1 **TYREE BACON**

2 Apparently, that was the first step in many that

3 I needed to do.

4 **Q When you called Sanchez or Chester -- 12:34:51PM**

5 MR. NOVIKOFF: Allison. 12:34:55PM

6 MR. GOODSTADT: Allison. 12:34:56PM

7 BY MR. GOODSTADT: 12:34:57PM

8 **Q When you called Allison, did she 12:34:57PM**

9 **inform you you had to take all the tests?**

10 A She said that we had to do the test. 12:35:02PM

11 She wasn't sure if it was gonna be the complete

12 battery of tests.

13 **Q And how about Pelk or Schneider, did 12:35:09PM**

14 **either of them tell you you had to take the full**

15 **battery?**

16 A They just said that we had to take the 12:35:15PM

17 test, and they weren't specific.

18 **Q What -- do you know what alerted civil 12:35:18PM**

19 **service to the fact that you hadn't -- or at**

20 **least that they believed that you hadn't been**

21 **certified?**

22 A No, I don't. 12:35:26PM

23 **Q Did you speak to anybody about what -- 12:35:28PM**

24 **the catalyst of that event?**

25 MR. NOVIKOFF: Other than Allison, 12:35:35PM

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<p>1 TYREE BACON</p> <p>2 Stan and --</p> <p>3 MR. GOODSTADT: Anybody. 12:35:39PM</p> <p>4 A Allison, Stan and Al Schneider. I got 12:35:39PM</p> <p>5 a letter and there was a number on the paper,</p> <p>6 and I wasn't quite sure what it was about..</p> <p>7 Attempted to get clarification, and there was no</p> <p>8 clarification. You had to take it.</p> <p>9 Q And you also talked to Ed Paradiso 12:35:53PM</p> <p>10 about it, and he said --</p> <p>11 A Right. Right. Exactly. 12:35:55PM</p> <p>12 Q Did you ever speak to anybody else 12:35:57PM</p> <p>13 about it?</p> <p>14 A No. 12:36:01PM</p> <p>15 Q Did you ever hear that one of the 12:36:02PM</p> <p>16 plaintiffs in this case called civil service to</p> <p>17 let them know?</p> <p>18 A No. 12:36:09PM</p> <p>19 Q You never heard anyone say that? 12:36:10PM</p> <p>20 A No. 12:36:12PM</p> <p>21 Q Never called anyone in civil service 12:36:12PM</p> <p>22 rat?</p> <p>23 MR. NOVIKOFF: Wait, wait, wait. 12:36:15PM</p> <p>24 Read that question back. 12:36:15PM</p> <p>25 I just want to make sure if I object, 12:36:17PM</p>	<p>1 TYREE BACON</p> <p>2 it relates to police department?</p> <p>3 A Yes. 12:37:08PM</p> <p>4 Q What is a rat? 12:37:09PM</p> <p>5 MR. NOVIKOFF: Objection. 12:37:11PM</p> <p>6 MR. GOODSTADT: As it relates to a 12:37:13PM</p> <p>7 police department.</p> <p>8 MR. NOVIKOFF: What is your 12:37:15PM</p> <p>9 understanding of what the word "rat" means</p> <p>10 as it pertains to the police department?</p> <p>11 A Somebody who runs their mouth. 12:37:18PM</p> <p>12 Q What do you mean by that? 12:37:20PM</p> <p>13 A Somebody who goes outside the chain of 12:37:23PM</p> <p>14 command.</p> <p>15 Q What's your understanding of chain of 12:37:28PM</p> <p>16 command? What does that mean?</p> <p>17 A Chain of command. You have a chain of 12:37:31PM</p> <p>18 command. If you have a problem, you address it</p> <p>19 through the chain of command. If you have a</p> <p>20 sergeant, you take it to the sergeant. If you</p> <p>21 don't get redress, you take it to the chief in</p> <p>22 this particular case. If you don't get redress</p> <p>23 from the chief, you take it to a village board</p> <p>24 member or the mayor. If you don't get redress,</p> <p>25 then you take it further. You can take it to</p>
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<p>1 TYREE BACON</p> <p>2 it's appropriate.</p> <p>3 MR. GOODSTADT: I asked if he ever 12:36:19PM</p> <p>4 called anyone at civil service a rat.</p> <p>5 MR. NOVIKOFF: Let me have the court 12:36:23PM</p> <p>6 reporter read it back.</p> <p>7 (Whereupon, the requested portion was 12:36:26PM</p> <p>8 read back by the court reporter: Never</p> <p>9 called anyone in civil service rat?)</p> <p>10 MR. GOODSTADT: Let me repeat the 12:36:41PM</p> <p>11 question, because not whether you called</p> <p>12 anyone in civil service a rat.</p> <p>13 BY MR. GOODSTADT: 12:36:47PM</p> <p>14 Q Have you ever called anyone a civil 12:36:48PM</p> <p>15 service rat?</p> <p>16 A No. 12:36:50PM</p> <p>17 Q Was there an answer? 12:36:54PM</p> <p>18 A I said no. 12:36:56PM</p> <p>19 Q Did you ever hear anybody call any of 12:36:56PM</p> <p>20 the plaintiffs in this case a civil service rat?</p> <p>21 A No. 12:37:01PM</p> <p>22 Q Have you ever heard that term, civil 12:37:02PM</p> <p>23 service rat?</p> <p>24 A No. 12:37:04PM</p> <p>25 Q Have you ever heard the term "rat" as 12:37:04PM</p>	<p>1 TYREE BACON</p> <p>2 civil service or another body, perhaps the</p> <p>3 District Attorney's Office.</p> <p>4 Q So it's your understanding that if you 12:37:57PM</p> <p>5 go through that process and you take it to the</p> <p>6 District Attorney's Office, that's not going</p> <p>7 outside your chain of command?</p> <p>8 A Correct. As long as you follow your 12:38:06PM</p> <p>9 chain of command..</p> <p>10 Q You never heard anyone say that they 12:38:14PM</p> <p>11 thought that Tom Snyder had alerted civil</p> <p>12 service to the fact that there were officers who</p> <p>13 were not certified at Ocean Beach?</p> <p>14 MR. NOVIKOFF: Don't answer that yet. 12:38:25PM</p> <p>15 Was the question -- did it start with 12:38:27PM</p> <p>16 did you ever hear?</p> <p>17 MR. GOODSTADT: Have you ever heard. 12:38:30PM</p> <p>18 MR. NOVIKOFF: Have you ever heard. 12:38:31PM</p> <p>19 Okay.</p> <p>20 A No. 12:38:33PM</p> <p>21 Q Have you ever heard anyone state a 12:38:36PM</p> <p>22 belief that Ed Carter had alerted civil service</p> <p>23 to the fact that there were certain officers in</p> <p>24 Ocean Beach who were not certified by Suffolk</p> <p>25 County?</p>

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1 TYREE BACON

2 A No. 12:38:48PM

3 Q Have you ever heard that Joe Nofi 12:38:50PM

4 lettered civil service to the fact that there

5 were officers in Ocean Beach who were not

6 certified?

7 A No. 12:38:59PM

8 Q Do you know how to spell Nofi? 12:39:00PM

9 A No. 12:39:02PM

10 Q Do you know how to spell Fiorillo? 12:39:02PM

11 A I mean, no. I could turn around -- 12:39:05PM

12 it's probably misspelled. But I imagine if I

13 wrote it out, it's probably incorrect.

14 Q How do you believe Mr. Fiorillo spells 12:39:14PM

15 his name?

16 MR. NOVIKOFF: Objection. 12:39:17PM

17 A F-I-O-R-E-L-L-O. I don't know. I'm 12:39:18PM

18 guessing.

19 Q How do you believe Mr. Nofi spells his 12:39:23PM

20 name?

21 A N-O-F-F-I. 12:39:26PM

22 Q So you showed up in April of '04 to 12:39:29PM

23 take the physical agility test. Did you

24 actually take it --

25 A Yes. 12:39:48PM

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1 TYREE BACON

2 Q -- on that day? 12:39:48PM

3 Did the other six or seven guys take 12:39:49PM

4 it?

5 A Yes. 12:39:52PM

6 Q Did you pass it? 12:39:52PM

7 A No. I had to go back and retake it 12:39:53PM

8 again.

9 Q So you failed the first time. Did you 12:39:56PM

10 have to appeal it or do you automatically get

11 another shot?

12 A No, you just go right back. You know, 12:39:59PM

13 they schedule a date at least 30 days later.

14 Q So failing the physical agility test 12:40:03PM

15 doesn't disqualify you from being a police

16 officer --

17 MR. NOVIKOFF: Objection. 12:40:12PM

18 BY MR. GOODSTADT: 12:40:13PM

19 Q -- as long as you take it again? 12:40:13PM

20 MR. NOVIKOFF: Objection. 12:40:15PM

21 A I mean, if you didn't qualify and you 12:40:17PM

22 took it the second time and qualified, then you

23 move on to the next step in the process..

24 Q But you had the ability to retake it 12:40:24PM

25 30 days later?

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1 TYREE BACON

2 A Yes. 12:40:28PM

3 Q And what about the physical agility 12:40:28PM

4 test did you fail the first time?

5 A I didn't make the sit-ups in the 12:40:32PM

6 allotted time.

7 Q And the second time, you did that? 12:40:36PM

8 A Yes. 12:40:37PM

9 Q When was the second time that you went 12:40:38PM

10 back for it?

11 A It was a month later. 12:40:40PM

12 Q So somewhere around May of '04? 12:40:42PM

13 A Correct. 12:40:44PM

14 Q Did you take any other civil service 12:40:44PM

15 tests?

16 A Yes. I did the medical. 12:40:47PM

17 MR. NOVIKOFF: In '94. 12:40:48PM

18 MR. GOODSTADT: In '04. 12:40:50PM

19 MR. NOVIKOFF: In '04. I'm sorry. 12:40:51PM

20 Correct.

21 MR. GOODSTADT: Well, I don't know if 12:40:53PM

22 it was '04 or '05.

23 MR. NOVIKOFF: In that time period. 12:40:53PM

24 BY MR. GOODSTADT: 12:40:55PM

25 Q After you learned that you were 12:40:57PM

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1 TYREE BACON

2 considered not to be certified by civil service,

3 did you take any other tests?

4 A Yes. 12:41:03PM

5 Q Okay. What was the second test you 12:41:04PM

6 took?

7 A I took the medical. 12:41:06PM

8 Q And when did you take that test? 12:41:11PM

9 A After I took the physical agility and 12:41:16PM

10 passed it.

11 Q How did you learn that you needed to 12:41:19PM

12 take the medical test?

13 A Civil service sent me notification to 12:41:23PM

14 report to this location on this date to take the

15 medical exam.

16 Q Did you call anyone at civil service 12:41:28PM

17 to question why you needed to take it?

18 A No. 12:41:31PM

19 Q Did you speak to anyone in the Ocean 12:41:32PM

20 Beach Police Department about your need to take

21 the medical?

22 A No. 12:41:38PM

23 Q Do you recall what month that was -- 12:41:40PM

24 A No. 12:41:42PM

25 Q -- that you got that notice? 12:41:43PM

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1 **TYREE BACON**

2 A It was after I took the physical 12:41:44PM

3 agility.

4 **Q So was it in '04? 12:41:47PM**

5 A Yes. 12:41:48PM

6 **Q Was it during the season? 12:41:49PM**

7 A I don't remember. 12:41:51PM

8 **Q And did you pass the medical? 12:41:56PM**

9 A Yes. 12:41:57PM

10 **Q Did you take any other tests -- 12:42:02PM**

11 A Yes. 12:42:04PM

12 **Q -- at or about that time in connection 12:42:04PM**

13 **with being certified as a police officer in**

14 **Ocean Beach?**

15 A Yes. 12:42:10PM

16 **Q What was the next test that you took? 12:42:10PM**

17 A Polygraph. 12:42:12PM

18 **Q When did you take the polygraph? 12:42:18PM**

19 A I think it was towards the end of '04. 12:42:20PM

20 **Q How many times did you take the 12:42:25PM**

21 **polygraph?**

22 A Once for Ocean Beach and once back for 12:42:28PM

23 Riverhead.

24 **Q How many times did you take it for 12:42:31PM**

25 **Ocean Beach?**

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1 **TYREE BACON**

2 A Only once. 12:42:34PM

3 **Q And it's your recollection that you 12:42:35PM**

4 **took the polygraph in '04?**

5 A Yeah. I could be mistaken. It may 12:42:43PM

6 have been '05. I don't know for certain.

7 **Q Have you ever seen a copy of your 12:42:49PM**

8 **polygraph examination report?**

9 A No. 12:42:53PM

10 **Q At the time that -- strike that. 12:43:02PM**

11 **How did you learn that you had to take 12:43:05PM**

12 **the polygraph?**

13 A I got notation from civil service that 12:43:08PM

14 I had to take the polygraph.

15 **Q At the time you got that notice, did 12:43:11PM**

16 **you call anyone at civil service to find out why**

17 **you had to do that?**

18 A No. 12:43:14PM

19 **Q Did you speak to anybody in Ocean 12:43:16PM**

20 **Beach about having to take the**

21 **polygraph prior -- well, strike that.**

22 **Did you speak to anybody at Ocean 12:43:22PM**

23 **Beach about the fact that you had to take the**

24 **polygraph at or about the time you received the**

25 **notice from civil service?**

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1 **TYREE BACON**

2 A I think when I got that, I also was 12:43:31PM

3 notified from Chief -- Sergeant Hesse to pick up

4 the pre-poly questionnaire, because you have to

5 fill out a questionnaire prior to filling out

6 the polygraph.

7 **Q And you picked that up from Hesse? 12:43:45PM**

8 A From Ocean Beach. 12:43:48PM

9 **Q From George Hesse, you got it? 12:43:49PM**

10 A I didn't get it from George directly. 12:43:51PM

11 I think it was at the station, and I picked it

12 up there. It was in an envelope for me.

13 **Q Had you filled out a pre-polygraph 12:44:00PM**

14 **questionnaire when you took the Riverhead**

15 **polygraph?**

16 A Yes. 12:44:07PM

17 **Q Was it the same questionnaire? 12:44:07PM**

18 A Pretty much. 12:44:09PM

19 **Q Was the questionnaire administered by 12:44:09PM**

20 **Suffolk County civil service or was it**

21 **administered by the beach?**

22 MR. NOVIKOFF: Which one? The one for 12:44:16PM

23 Ocean Beach.

24 MR. GOODSTADT: In '04. 12:44:19PM

25 A Yes. It was administered by Suffolk 12:44:20PM

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1 **TYREE BACON**

2 County Police in Suffolk County Police

3 Headquarters.

4 **Q So where did you fill it out -- strike 12:44:25PM**

5 **that.**

6 **Did you fill out the pre-polygraph 12:44:28PM**

7 **questionnaire?**

8 A Yes. 12:44:31PM

9 **Q Where did you fill it out? 12:44:31PM**

10 A At home. 12:44:33PM

11 **Q And where did you submit that? 12:44:40PM**

12 A I think it had to go back to the 12:44:44PM

13 village for them to review it, and then it got

14 forwarded to Suffolk County. But I'm not

15 certain of the procedure.

16 While you're looking through those 12:45:01PM

17 documents, do you mind if I --

18 MR. NOVIKOFF: Well, it's 12:45 p.m. 12:45:06PM

19 MR. GOODSTADT: We'll take a lunch 12:45:07PM

20 break.

21 MR. NOVIKOFF: I mean, again, the 12:45:07PM

22 witness has advised me, for child care

23 issues, he has to leave at 4:30. I have

24 questions, so...

25 MR. GOODSTADT: I mean, that I think 12:45:16PM

<p style="text-align: right;">Page 161</p> <p>1 TYREE BACON</p> <p>2 we should take a lunch break and see how</p> <p>3 long we go. If we have to bring him back --</p> <p>4 MR. NOVIKOFF: We'll bring him back. 12:45:21PM</p> <p>5 MR. GOODSTADT: And we'll go even 12:45:21PM</p> <p>6 further into March.</p> <p>7 THE VIDEOGRAPHER: The time is 12:46. 12:45:27PM</p> <p>8 We are going off the record.</p> <p>9 (Whereupon, a discussion was held off 12:45:31PM</p> <p>10 the record.)</p> <p>11 THE VIDEOGRAPHER: The time is 1:49. 1:48:25PM</p> <p>12 We are back on the record.</p> <p>13 BY MR. GOODSTADT: 1:48:28PM</p> <p>14 Q Mr. Bacon, I just want to go back to 1:48:32PM</p> <p>15 something that you testified to before. You</p> <p>16 testified that on certain occasions you drove</p> <p>17 the Bosettis and others to the checkpoint; is</p> <p>18 that correct?</p> <p>19 A Yes. 1:48:44PM</p> <p>20 Q And that was after they stayed in the 1:48:44PM</p> <p>21 village and were drinking?</p> <p>22 MR. NOVIKOFF: Objection. 1:48:47PM</p> <p>23 A They stayed. They could've been out 1:48:50PM</p> <p>24 eating, drinking, partying. I'm not certain</p> <p>25 what they did.</p>	<p style="text-align: right;">Page 163</p> <p>1 TYREE BACON</p> <p>2 A Because they were there till 4:00 a.m. 1:49:34PM</p> <p>3 Q It's possible they had four or five 1:49:37PM</p> <p>4 drinks while they were out?</p> <p>5 MR. NOVIKOFF: Objection. 1:49:41PM</p> <p>6 A Anything's possible. 1:49:42PM</p> <p>7 Q You didn't have any concerns of them 1:49:45PM</p> <p>8 getting into the cars after being out at the</p> <p>9 bars until 4:00 or 5:00 in the morning?</p> <p>10 MR. NOVIKOFF: Objection. Foundation. 1:49:52PM</p> <p>11 Form.</p> <p>12 You can answer. 1:49:53PM</p> <p>13 A They seemed to be quite coherent. 1:49:55PM</p> <p>14 They didn't appear to be under the influence. I</p> <p>15 didn't see a problem. If there was, then I</p> <p>16 wouldn't have taken them to their cars.</p> <p>17 Q Had you ever asked them if they were 1:50:05PM</p> <p>18 drinking?</p> <p>19 A No. 1:50:08PM</p> <p>20 Q Have you ever used any of the Ocean 1:50:10PM</p> <p>21 Beach police-issued equipment outside of Ocean</p> <p>22 Beach?</p> <p>23 A Not that I recall. 1:50:18PM</p> <p>24 Q You don't recall an incident where you 1:50:19PM</p> <p>25 deployed Ocean Beach issued Mace in a bar</p>
<p style="text-align: right;">Page 162</p> <p>1 TYREE BACON</p> <p>2 Q Did you ever know them to be drinking 1:48:55PM</p> <p>3 when you brought them back to the checkpoint?</p> <p>4 A They weren't drinking -- 1:48:59PM</p> <p>5 MR. NOVIKOFF: Objection. 1:48:59PM</p> <p>6 BY MR. GOODSTADT: 1:49:00PM</p> <p>7 Q Had you ever known them to have been 1:49:00PM</p> <p>8 drinking in the village on nights that you</p> <p>9 brought them back to the checkpoint?</p> <p>10 MR. NOVIKOFF: Objection. 1:49:07PM</p> <p>11 A Yes. 1:49:08PM</p> <p>12 Q And you drove them back to their car? 1:49:09PM</p> <p>13 A Yes. 1:49:12PM</p> <p>14 Q And you saw them get into their cars? 1:49:12PM</p> <p>15 A Uh-huh. Yes. 1:49:16PM</p> <p>16 Q You saw them drive away? 1:49:17PM</p> <p>17 A Yes. 1:49:19PM</p> <p>18 Q After they'd been drinking, you did 1:49:19PM</p> <p>19 that?</p> <p>20 MR. NOVIKOFF: Objection. 1:49:22PM</p> <p>21 A I'm assuming they drank. I didn't see 1:49:23PM</p> <p>22 them drink. They weren't drinking in the</p> <p>23 vehicle, so I'm assuming they may have had one</p> <p>24 or two drinks when they were out..</p> <p>25 Q What's that assumption based on? 1:49:32PM</p>	<p style="text-align: right;">Page 164</p> <p>1 TYREE BACON</p> <p>2 outside of Ocean Beach?</p> <p>3 A That wasn't Ocean Beach issued Mace, 1:50:26PM</p> <p>4 so no.</p> <p>5 Q Did you ever deploy Mace in a bar 1:50:30PM</p> <p>6 outside of Ocean Beach?</p> <p>7 A No. 1:50:37PM</p> <p>8 Q Did you ever deploy Mace outside of a 1:50:38PM</p> <p>9 bar outside of Ocean Beach?</p> <p>10 A No. 1:50:43PM</p> <p>11 Q The incident that you testified to in 1:50:43PM</p> <p>12 which you were arrested for allegedly striking</p> <p>13 your girlfriend at the time, do you recall that?</p> <p>14 A Yes. 1:50:50PM</p> <p>15 Q Did you deploy Mace during that 1:50:51PM</p> <p>16 incident?</p> <p>17 A No. 1:50:55PM</p> <p>18 Q Do you recall ever deploying Mace 1:51:00PM</p> <p>19 while you were on duty in Ocean Beach?</p> <p>20 A Yes. 1:51:03PM</p> <p>21 MR. NOVIKOFF: I'm sorry, I didn't 1:51:04PM</p> <p>22 hear the question because of the noise.</p> <p>23 What was the question?</p> <p>24 (Whereupon, the referred to portion 1:51:08PM</p> <p>25 was read back by the court reporter: Do you</p>

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<p>1 TYREE BACON</p> <p>2 recall ever deploying Mace while you were on</p> <p>3 duty in Ocean Beach?)</p> <p>4 MR. NOVIKOFF: Yes. Okay. 1:51:14PM</p> <p>5 BY MR. GOODSTADT: 1:51:15PM</p> <p>6 Q The answer is yes? 1:51:15PM</p> <p>7 A Yes. 1:51:16PM</p> <p>8 Q How many times? 1:51:18PM</p> <p>9 A Twice. 1:51:20PM</p> <p>10 Q And where was the first time you 1:51:21PM</p> <p>11 deployed the Mace?</p> <p>12 A I believe that was in McGuire's. 1:51:27PM</p> <p>13 Q When was that incident? 1:51:29PM</p> <p>14 A 2003, 2004. 1:51:34PM</p> <p>15 Q Why did you deploy Mace in McGuire's? 1:51:39PM</p> <p>16 A There was a bar fight. 1:51:43PM</p> <p>17 Q How many people did you hit with the 1:51:44PM</p> <p>18 Mace?</p> <p>19 A The two people who were fighting and 1:51:48PM</p> <p>20 myself.</p> <p>21 Q Was one of the people that were 1:51:51PM</p> <p>22 fighting an off-duty third precinct officer?</p> <p>23 A I don't recall. 1:51:57PM</p> <p>24 Q So you don't recall deploying Mace on 1:51:57PM</p> <p>25 an off-duty Third Precinct officer at McGuire's?</p>	<p>1 TYREE BACON</p> <p>2 A I'm assuming it was that time frame. 1:52:41PM</p> <p>3 I don't -- I don't recall for certain, but we</p> <p>4 didn't the have use of force paperwork for that</p> <p>5 at that time.</p> <p>6 Q But it was during the time period 1:52:53PM</p> <p>7 after you came back in '99, right?</p> <p>8 A Yes, it was after '99. 1:52:56PM</p> <p>9 Q And before you took all the battery of 1:52:57PM</p> <p>10 tests to become certified?</p> <p>11 A I don't recall. 1:53:02PM</p> <p>12 Q You testified before about the 1:53:08PM</p> <p>13 paperwork that you filed or filled out in</p> <p>14 connection with coming back in '99, correct?</p> <p>15 MR. NOVIKOFF: Objection. 1:53:17PM</p> <p>16 A Correct. 1:53:18PM</p> <p>17 Q Did you fill out any paperwork for 1:53:18PM</p> <p>18 Suffolk County in connection with coming back in</p> <p>19 '99?</p> <p>20 MR. NOVIKOFF: Objection. 1:53:23PM</p> <p>21 A I submitted a resume, and I filled out 1:53:25PM</p> <p>22 the standard Suffolk County civil service</p> <p>23 application at the village office.</p> <p>24 Q And who did you submit that to? 1:53:32PM</p> <p>25 A The village office. 1:53:33PM</p>
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<p>1 TYREE BACON</p> <p>2 MR. NOVIKOFF: Objection. 1:52:05PM</p> <p>3 A No. I don't believe anyone of the 1:52:05PM</p> <p>4 people fighting were police officers from any</p> <p>5 jurisdiction.</p> <p>6 Q Did you file a field report with 1:52:10PM</p> <p>7 respect to that incident?</p> <p>8 A No, I did not. The responding 1:52:13PM</p> <p>9 officers filed the field report, because I was</p> <p>10 getting my eyes washed out from the ambulance.</p> <p>11 Q Were you on duty at the time? 1:52:22PM</p> <p>12 A Yes. 1:52:23PM</p> <p>13 Q Did you fill out a use of force 1:52:24PM</p> <p>14 report?</p> <p>15 A At that time, we didn't have use of 1:52:27PM</p> <p>16 force reports.</p> <p>17 Q So your testimony is in '03 and '04, 1:52:29PM</p> <p>18 there were no use of force reports?</p> <p>19 MR. NOVIKOFF: Objection. I don't 1:52:34PM</p> <p>20 know if you established a timeframe.</p> <p>21 MR. GOODSTADT: Well, he said it was 1:52:37PM</p> <p>22 in 2003, 2004.</p> <p>23 MR. NOVIKOFF: Did he? 1:52:39PM</p> <p>24 MR. GOODSTADT: He did. 1:52:40PM</p> <p>25 MR. NOVIKOFF: Okay. 1:52:41PM</p>	<p>1 TYREE BACON</p> <p>2 Q Do you recall who in the village 1:53:36PM</p> <p>3 office?</p> <p>4 A No. 1:53:37PM</p> <p>5 Q Let's go back to the time frame in 1:53:40PM</p> <p>6 which you were going through the battery of</p> <p>7 tests.</p> <p>8 I believe you testified that you 1:53:48PM</p> <p>9 filled out some pre-polygraph paperwork; is that</p> <p>10 correct?</p> <p>11 A Yes. 1:53:53PM</p> <p>12 MR. NOVIKOFF: We're talking about in 1:53:53PM</p> <p>13 the 2004, 2005 period now?</p> <p>14 MR. GOODSTADT: Yes. 1:53:57PM</p> <p>15 MR. NOVIKOFF: Okay.. 1:53:58PM</p> <p>16 BY MR. GOODSTADT: 1:53:59PM</p> <p>17 Q Do you recall filling out any other 1:53:59PM</p> <p>18 paperwork for a background check?</p> <p>19 A Yes. 1:54:04PM</p> <p>20 Q And what paperwork did you fill out 1:54:06PM</p> <p>21 for a background check?</p> <p>22 A There was a background investigation 1:54:09PM</p> <p>23 packet.</p> <p>24 Q Where did you get that from? 1:54:13PM</p> <p>25 A That was from the police department 1:54:15PM</p>

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1 TYREE BACON

2 also.

3 Q From the Ocean Beach Police 1:54:17PM

4 Department?

5 A Yes. 1:54:19PM

6 Q Okay. And who gave you that packet to 1:54:20PM

7 fill out?

8 A The polygraph paperwork and the 1:54:27PM

9 application packet were in a big manila envelope

10 with my name on it and the names of those that

11 had to go through. I don't remember anyone

12 specifically giving it to me.

13 Q Who was performing the background 1:54:40PM

14 check?

15 A I believe the police department. 1:54:42PM

16 Q The Ocean Beach Police Department -- 1:54:45PM

17 A Yes. 1:54:47PM

18 Q -- or Suffolk County Police 1:54:47PM

19 Department?

20 A Ocean Beach. 1:54:49PM

21 Q Do you know who at the beach was in 1:54:50PM

22 charge of performing the background check?

23 A I believe at the time, Chief Hesse -- 1:54:54PM

24 Sergeant Hesse and Chief Paradiso were doing it.

25 Q Have you ever heard of the Ocean Beach 1:55:00PM

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1 TYREE BACON

2 Police Department applicant investigation

3 section?

4 A No. 1:55:05PM

5 MR. GOODSTADT: Mark this, please as 1:55:08PM

6 Bacon 1.

7 (Whereupon, Bates document 7360-7381 1:55:13PM

8 was marked as Bacon Exhibit 1 for

9 identification, as of this date.)

10 MR. NOVIKOFF: Don't do anything with 1:55:41PM

11 it until he asks you.

12 BY MR. GOODSTADT: 1:55:43PM

13 Q I've placed in front of Mr. Bacon 1:55:44PM

14 what's been marked as Bacon 1. It is a

15 multiple-page exhibit, bearing Bates 7360

16 through 7381. (Handing.)

17 Mr. Bacon, do you recognize the 1:55:53PM

18 document that's been marked as Bacon 1?

19 MR. NOVIKOFF: Now, if you need to 1:55:58PM

20 review the document to answer the question,

21 do so. If you don't, don't do so.

22 A May I thumb through it? 1:56:04PM

23 Q Sure. 1:56:09PM

24 A Okay, I remember it. 1:56:34PM

25 Q If you look at the -- well, what is 1:56:35PM

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1 TYREE BACON

2 this document?

3 A This was the investigation packet that 1:56:38PM

4 was handed.

5 Q If you look at the first page, it says 1:56:40PM

6 "police candidate application packet." Do you

7 see that?

8 A Yes. 1:56:44PM

9 Q Were you a candidate for a police 1:56:45PM

10 officer at that time?

11 MR. NOVIKOFF: Objection. 1:56:47PM

12 A No. 1:56:48PM

13 Q Do you know why you were filling out a 1:56:49PM

14 candidate application packet?

15 MR. NOVIKOFF: Objection. 1:56:52PM

16 A Because my original investigation 1:56:55PM

17 packet wasn't around.

18 Q When did you fill out your original 1:57:04PM

19 investigation packet?

20 A Back in 1990. 1:57:08PM

21 Q And did you fill it out for the Ocean 1:57:09PM

22 Beach Police Department or Suffolk County?

23 A I believe it was an Ocean Beach packet 1:57:19PM

24 even back then.

25 Q Who was in charge of doing the 1:57:22PM

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1 TYREE BACON

2 background back then?

3 A Ed Paradiso. 1:57:25PM

4 Q You recall that or are you 1:57:25PM

5 speculating?

6 A Well, it may have been the chief.. 1:57:28PM

7 Q So you're speculating? 1:57:30PM

8 A It was either of those two. 1:57:32PM

9 Q But you definitely recall doing it 1:57:33PM

10 through Ocean Beach and not through Suffolk

11 County, the background check?

12 A Yes. 1:57:38PM

13 Q If you look at page 7361 -- strike 1:57:38PM

14 that.

15 Before you look at 7361, do you recall 1:57:42PM

16 when you received this packet?

17 A No. Around the same time I'm assuming 1:57:46PM

18 I did the polygraph paperwork.

19 Q So if you look at 7361, which is the 1:57:52PM

20 second page of Exhibit 1.

21 A Okay. 1:57:56PM

22 Q Do you see the -- halfway down, the 1:57:57PM

23 signature box?

24 A Yes. 1:58:00PM

25 Q Is that your signature? 1:58:01PM

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1 TYREE BACON

2 A It is. 1:58:02PM

3 Q And it's dated 5-1-05. 1:58:03PM

4 Do you see that? 1:58:04PM

5 A Yes. 1:58:06PM

6 Q Any reason to believe you didn't sign 1:58:07PM

7 it on 5-1-05?

8 A Nope. 1:58:10PM

9 Q Does that refresh your recollection as 1:58:11PM

10 to when you got this information?

11 MR. NOVIKOFF: You can answer. 1:58:14PM

12 A Maybe not when I got it, but that was 1:58:15PM

13 when I signed it. And if you go further down,

14 the 2nd of May is when it was notarized.

15 Q So just so I understand, you signed it 1:58:22PM

16 on May 1st and the notary signed it on May 2nd?

17 Is that's what's indicated here?

18 MR. NOVIKOFF: Objection. The 1:58:32PM

19 document speaks for itself.

20 But you can answer. 1:58:33PM

21 A Yeah. 1:58:35PM

22 Q So you didn't sign it in front of the 1:58:35PM

23 notary?

24 A No, I did. 1:58:38PM

25 Q So you signed it in front of the 1:58:40PM

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1 TYREE BACON

2 notary on May 1st and then the notary notarized

3 it on May 2nd? Is that what happened?

4 A No. I probably made a mistake and 1:58:47PM

5 signed it the 1st on the 2nd.

6 Q Okay. And are you speculating to that 1:58:51PM

7 or do you recall that being a mistake?

8 MR. NOVIKOFF: Objection. 1:58:55PM

9 A I don't recall. 1:58:56PM

10 Q Now, if you see on this page, it says 1:58:59PM

11 that you understand that failure to complete and

12 return the questionnaire and documents I have

13 been personally given today to the Ocean Beach

14 Police Department applicant investigation

15 section.

16 Do you see that? 1:59:13PM

17 A Yes. 1:59:14PM

18 Q Does that refresh your recollection of 1:59:15PM

19 what the Ocean Beach Police Department applicant

20 investigation section is?

21 MR. NOVIKOFF: Objection. His 1:59:23PM

22 testimony was he never heard of it, not that

23 he doesn't recall.

24 But over my objection, you can answer 1:59:28PM

25 the question.

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1 TYREE BACON

2 A I remember having to have this in by 1:59:28PM

3 the 15th.

4 Q That wasn't the question. The 1:59:32PM

5 question was whether that refreshes your

6 recollection of an Ocean Beach Police Department

7 applicant investigation section.

8 MR. NOVIKOFF: Note my objection to 1:59:43PM

9 the form of the question.

10 You can answer. 1:59:43PM

11 A I believe answer that. There is not 1:59:44PM

12 an applicant investigation section, but they do

13 their own investigations. So one of the

14 officers or supervisors conducted the

15 investigations.

16 Q All right. Just so I'm clear, are you 1:59:54PM

17 saying that this section that's referenced in

18 this document does not exist?

19 MR. NOVIKOFF: Objection. 2:00:01PM

20 You can answer. 2:00:06PM

21 A I'm saying it's an individual who does 2:00:06PM

22 the work. Whether they call him the applicant

23 investigation section, I couldn't tell you.

24 Q And then it says if it's not submitted 2:00:14PM

25 to that applicant investigation section no later

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1 TYREE BACON

2 then 11:00 a.m. on 5-15-05, shall result in the

3 removal of my name from the current certified

4 list of police officer candidates.

5 Do you see that? 2:00:28PM

6 A Yes. 2:00:29PM

7 Q What list is that referring to? 2:00:29PM

8 MR. NOVIKOFF: Objection. 2:00:31PM

9 A I'm guessing that's for the -- 2:00:33PM

10 MR. NOVIKOFF: Don't guess. 2:00:35PM

11 A Okay.. Then I don't know. 2:00:36PM

12 Q So you were signing this and having it 2:00:38PM

13 notarized, but you didn't know what section was

14 being referenced and you didn't know what list

15 was being referenced? Is that your testimony?

16 MR.. NOVIKOFF: Objection. His 2:00:46PM

17 testimony is what it is.

18 You can answer. 2:00:49PM

19 A This is the same packet that they use 2:00:50PM

20 for full-time officers, okay? I'm a part-timer.

21 They have to have it in, if they're coming off

22 the Suffolk County list or village list. So

23 there are things in here such as that verbiage

24 that really doesn't apply to a part-timer.

25 Q Right. 2:01:08PM

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1 **TYREE BACON**

2 A Like being removed from, you know, a 2:01:08PM

3 list of police officer candidates.

4 **Q But you still swore to that statement 2:01:13PM**

5 **even though it doesn't apply to you; is that**

6 **your testimony?**

7 MR. NOVIKOFF: Objection. 2:01:19PM

8 You can answer if you want. If you 2:01:19PM

9 can.

10 A What I swore to is that this would be 2:01:22PM

11 in by this date and it would've been completed,

12 to the best of my knowledge, in its entirety on

13 that date. That's what I swore to.

14 **Q Well, what you swore to is written up 2:01:31PM**

15 **here. That's what you swore to.**

16 MR. NOVIKOFF: Andrew, come on. 2:01:36PM

17 MR. GOODSTADT: The document speaks 2:01:37PM

18 for itself.

19 MR. NOVIKOFF: It does speak for 2:01:39PM

20 itself. You know that question is

21 ridiculous.

22 But you can answer it again, if you 2:01:42PM

23 want.

24 If that's the best you got. 2:01:42PM

25 MR. GOODSTADT: We've already gone 2:01:45PM

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1 **TYREE BACON**

2 through a lot of the best we got.

3 MR. NOVIKOFF: I don't think so. 2:01:48PM

4 THE WITNESS: Now, now, play nice. 2:01:49PM

5 BY MR. GOODSTADT: 2:01:51PM

6 **Q Now, if you look at Page 7363. 2:01:51PM**

7 A (Witness complies.) Yes. 2:01:57PM

8 **Q Do you recall signing this document? 2:01:58PM**

9 A I do. 2:01:59PM

10 **Q And did you sign it on the 1st or did 2:02:00PM**

11 **you by the accident sign the 1st -- as the 1st**

12 **on the 2nd?**

13 MR. NOVIKOFF: Objection. 2:02:06PM

14 A I may have done it by accident. 2:02:07PM

15 **Q But sitting here today, you don't know 2:02:08PM**

16 **one way or the other?**

17 A It may have been an accident. 2:02:19PM

18 **Q Sitting here today, you don't know one 2:02:20PM**

19 **way or the other whether it was an accident?**

20 A I may have signed it on the 2nd, 2:02:21PM

21 dating it the 1st is what may have happened.

22 No, I don't know for sure.

23 **Q Who's Charles Edmond? 2:02:27PM**

24 A He's a notary public. 2:02:32PM

25 **Q Is he an employee of the beach? 2:02:33PM**

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1 **TYREE BACON**

2 A No. 2:02:35PM

3 **Q Where did you get this notarized? 2:02:37PM**

4 A I don't recall. 2:02:39PM

5 **Q Did you get it notarized on Ocean 2:02:40PM**

6 **Beach?**

7 A No. 2:02:43PM

8 **Q Did you fill this documentation out in 2:02:44PM**

9 **Ocean Beach?**

10 A No, I did not. 2:02:46PM

11 **Q Where were you when you got this 2:02:47PM**

12 **notarized?**

13 A I don't recall. It may have been at 2:02:51PM

14 my bank.

15 **Q Did you fill this document out at your 2:02:53PM**

16 **bank?**

17 A No, I filled it out at home. 2:02:56PM

18 **Q Did you sign the document at the bank? 2:02:58PM**

19 A Yes. 2:03:00PM

20 **Q If you look at the top of 7363, it 2:03:01PM**

21 **says conditional offer of employment -- do you**

22 **see that -- as a police officer with the Ocean**

23 **Beach Police Department?**

24 A Yes. 2:03:09PM

25 **Q What did it mean for you to get a 2:03:10PM**

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1 **TYREE BACON**

2 **conditional offer of employment?**

3 MR. NOVIKOFF: Objection. 2:03:14PM

4 You can answer. If you know. Don't 2:03:14PM

5 guess.

6 A Once again, that was pertaining -- 2:03:16PM

7 this is all geared to full-time police officers.

8 It's the same packet --

9 MR. NOVIKOFF: No, don't. If you 2:03:23PM

10 don't know --

11 A I don't know. 2:03:25PM

12 MR. NOVIKOFF: -- don't guess. 2:03:26PM

13 BY MR. GOODSTADT: 2:03:26PM

14 **Q The second paragraph, it says, "As 2:03:27PM**

15 **part of the preemployment stage of the selection**

16 **process, a background investigation of my**

17 **character has been initiated."**

18 **Do you see that? 2:03:36PM**

19 A Yes. 2:03:37PM

20 **Q What was your understanding of the 2:03:37PM**

21 **preemployment stage of the selection process?**

22 MR. NOVIKOFF: Objection. Form. 2:03:45PM

23 Assuming you had an understanding, but 2:03:46PM

24 you can answer.

25 A I didn't have an understanding. 2:03:48PM

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1 TYREE BACON

2 Q And then on the next paragraph it says 2:03:49PM

3 on 5-1-05 commanding officer Sergeant George

4 Hesse of the Ocean Beach Police Department

5 applicant investigation section advised you of

6 at this point in the selection process I'm being

7 presented with a conditional offer of employment

8 in accordance with Section 42 USC 12112 of the

9 Americans with Disabilities Act.

10 Do you see that? 2:04:18PM

11 A Yes. 2:04:19PM

12 Q Did George Hesse advise you on 2:04:19PM

13 May 1st, 2005 that you were being given a --

14 presented a conditional offer of employment?

15 MR.. NOVIKOFF: Objection. 2:04:29PM

16 A I don't recall. 2:04:30PM

17 Q Do you recall George Hesse being the 2:04:32PM

18 commanding officer of the Ocean Beach Police

19 Department applicant investigation section?

20 A I don't recall. 2:04:38PM

21 Q The next paragraph says you understand 2:04:47PM

22 that the offer of employment is conditional upon

23 taking and successfully passing a medical exam,

24 psychological examination, polygraph examination

25 and a physical fitness screening test

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1 TYREE BACON

2 administered by Suffolk County Department of

3 Civil Service.

4 Do you see that? 2:05:02PM

5 A Yes. 2:05:03PM

6 MR. NOVIKOFF: And the last sentence. 2:05:05PM

7 BY MR. GOODSTADT: 2:05:05PM

8 Q And that my ongoing background 2:05:05PM

9 investigation reveals nothing of a derogatory

10 nature.

11 Do you see that? 2:05:08PM

12 A Yes. 2:05:09PM

13 Q At this point in time, May of '05, had 2:05:10PM

14 you taken those other tests that you testified

15 to, the physical agility, medical? Those are

16 two that you testified to.

17 A Yes. 2:05:23PM

18 Q So that had already been done? 2:05:24PM

19 A I believe so. 2:05:29PM

20 Q And other than for -- I believe you 2:05:52PM

21 testified before that the only two police

22 departments that you applied to were the Ocean

23 Beach Police Department and the Riverhead Police

24 Department; is that correct?

25 MR. NOVIKOFF: Objection. 2:06:04PM

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1 TYREE BACON

2 You can answer. 2:06:05PM

3 A No, that's not correct. Those were 2:06:06PM

4 the departments that I had worked for and

5 processed for.

6 Q What departments have you applied for 2:06:12PM

7 other than for those two?

8 MR. NOVIKOFF: Police departments, 2:06:16PM

9 right?

10 MR. GOODSTADT: Police departments. 2:06:17PM

11 A I've taken plenty of tests. Port 2:06:19PM

12 Authority Police, Long Island Railroad,

13 Metro-North railroad, prior to them merging to

14 MTA. Suffolk County, I took their test. NYPD.

15 I took other tests, the deputy sheriff, park

16 ranger test. What else? The bay harbor --

17 harbormaster, bay constable. There may be

18 others, but nothing that jumps out at me.

19 Q Did you fail any tests in connection 2:06:59PM

20 with any of those applications, other than for

21 the Riverhead polygraph?

22 MR. NOVIKOFF: Objection. 2:07:05PM

23 You can answer. 2:07:05PM

24 A No. 2:07:06PM

25 Q You don't recall failing the medical 2:07:06PM

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1 TYREE BACON

2 test for the New York Police Department job?

3 A Actually, I was disqualified in 1984 2:07:12PM

4 because I was six pounds underweight.

5 Q That was failing the medical? 2:07:18PM

6 A Yeah, it was their premedical. 2:07:19PM

7 Q Have you ever been fired from any 2:07:39PM

8 jobs?

9 A Yes. 2:07:41PM

10 Q How many? 2:07:42PM

11 A One. 2:07:43PM

12 Q What job were you fired from? 2:07:44PM

13 A Arby's, back in 1981, 1982. 2:07:45PM

14 MR. NOVIKOFF: You don't want to know 2:07:53PM

15 why? I think he stole some pickles.

16 MR. GOODSTADT: It's better than 2:07:57PM

17 stealing stuff from the New York EMS.

18 MR. NOVIKOFF: So you think. Ooh. 2:08:01PM

19 THE WITNESS: Ooh. 2:08:03PM

20 BY MR. GOODSTADT: 2:08:05PM

21 Q Why were you fired from Arby's? 2:08:06PM

22 A I didn't show up to work. 2:08:08PM

23 Q Just abandoned your job? 2:08:10PM

24 A Yeah, it sucked. 2:08:12PM

25 Q When did you take -- after the medical 2:08:27PM

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<p>1 TYREE BACON</p> <p>2 test, what was the next test that you took to be</p> <p>3 certified as a police officer for Ocean Beach?</p> <p>4 A I think it was a polygraph. 2:08:34PM</p> <p>5 Q When did you take the polygraph test? 2:08:36PM</p> <p>6 A Not certain. 2:08:39PM</p> <p>7 Q Was it before or after you filled out 2:08:39PM</p> <p>8 the documentation that's been marked as Bacon 1?</p> <p>9 A I think it was after this. 2:08:46PM</p> <p>10 Q So it was sometime in '05 that you 2:08:48PM</p> <p>11 took the polygraph?</p> <p>12 A I'm not certain. 2:08:52PM</p> <p>13 Q And I don't recall the answer to this 2:08:58PM</p> <p>14 question.</p> <p>15 When did you first learn -- what month 2:09:00PM</p> <p>16 was it in '04 that you first learned that you</p> <p>17 needed to take these tests?</p> <p>18 MR. NOVIKOFF: Objection. 2:09:07PM</p> <p>19 You can answer. 2:09:07PM</p> <p>20 A I don't remember. I got a letter from 2:09:08PM</p> <p>21 civil service.</p> <p>22 Q Well, you testified it was April '04 2:09:11PM</p> <p>23 that you took the physical agility test,</p> <p>24 correct?</p> <p>25 MR. NOVIKOFF: Objection. His 2:09:16PM</p>	<p>1 TYREE BACON</p> <p>2 Q Did you ever speak to any of the 2:10:01PM</p> <p>3 administrators in Ocean Beach about requirements</p> <p>4 to take these tests?</p> <p>5 MR. NOVIKOFF: Objection. Asked and 2:10:08PM</p> <p>6 answered.</p> <p>7 You can answer. 2:10:09PM</p> <p>8 A No. 2:10:10PM</p> <p>9 Q Did you ever speak to -- who was the 2:10:10PM</p> <p>10 mayor at the time?</p> <p>11 A I think it was Natalie Rogers. 2:10:13PM</p> <p>12 Q Did you ever speak to her about it? 2:10:15PM</p> <p>13 A No. 2:10:17PM</p> <p>14 Q Did you ever speak to Joe Loeffler, 2:10:17PM</p> <p>15 when he was a trustee, about it?</p> <p>16 MR. NOVIKOFF: Objection. 2:10:21PM</p> <p>17 A No. 2:10:21PM</p> <p>18 Q Was it your understanding that you 2:10:30PM</p> <p>19 were entitled to work during those two seasons,</p> <p>20 '04 and '05, even though you hadn't been</p> <p>21 certified?</p> <p>22 MR. NOVIKOFF: Objection to the form 2:10:40PM</p> <p>23 of the question.</p> <p>24 You can answer. 2:10:42PM</p> <p>25 A Yes. 2:10:42PM</p>
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<p>1 TYREE BACON</p> <p>2 testimony is what it is.</p> <p>3 You can answer. 2:09:17PM</p> <p>4 A If that's what I testified to, sure. 2:09:18PM</p> <p>5 Q So you worked the '04 season knowing 2:09:20PM</p> <p>6 that you had to pass these tests?</p> <p>7 A Yes. 2:09:25PM</p> <p>8 MR. NOVIKOFF: Objection. Form of the 2:09:26PM</p> <p>9 question.</p> <p>10 BY MR. GOODSTADT: 2:09:28PM</p> <p>11 Q Without actually passing them; is that 2:09:29PM</p> <p>12 correct?</p> <p>13 MR. NOVIKOFF: Objection. 2:09:32PM</p> <p>14 You can answer, if you can. 2:09:32PM</p> <p>15 A Yes. 2:09:34PM</p> <p>16 Q Yes. And you worked at least part of 2:09:34PM</p> <p>17 the '05 season without passing all of these</p> <p>18 tests, correct?</p> <p>19 A Yes. 2:09:41PM</p> <p>20 Q Did you work -- had you passed the 2:09:41PM</p> <p>21 tests prior to the end of the '05 season?</p> <p>22 A I don't recall.. 2:09:47PM</p> <p>23 Q Did you ever speak to Maryann Minerva 2:09:55PM</p> <p>24 about the requirement to take these tests?</p> <p>25 A No. 2:10:01PM</p>	<p>1 TYREE BACON</p> <p>2 Q What was the basis of your belief of 2:10:43PM</p> <p>3 that?</p> <p>4 A Because there was a lapse in the 2:10:45PM</p> <p>5 village notifying civil service. It was no</p> <p>6 lapse in my employment status. It was a lapse</p> <p>7 in them notifying civil service.</p> <p>8 Q How about the other six or seven guys 2:10:57PM</p> <p>9 that you testified to, were they working prior</p> <p>10 to passing these tests?</p> <p>11 MR. NOVIKOFF: To the extent you know, 2:11:06PM</p> <p>12 you can answer.</p> <p>13 A Some yes, some no, and I can't be 2:11:08PM</p> <p>14 specific who did and who didn't.</p> <p>15 Q Well, the Bosettis were there in April 2:11:12PM</p> <p>16 of '04 with you, right?</p> <p>17 A Yes. 2:11:17PM</p> <p>18 Q When did they start working in Ocean 2:11:17PM</p> <p>19 Beach?</p> <p>20 A I don't know. 2:11:21PM</p> <p>21 Q Hardman was there in April '04, 2:11:21PM</p> <p>22 correct?</p> <p>23 A Yes. 2:11:25PM</p> <p>24 Q When did he start working for the 2:11:26PM</p> <p>25 beach?</p>

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1 TYREE BACON

2 A I don't know. 2:11:27PM

3 Q How about Tommy Shaw, do you know when 2:11:28PM

4 he started?

5 A No. 2:11:31PM

6 Q Pat Cherry, do you know when he 2:11:31PM

7 started working for the beach?

8 A No. 2:11:33PM

9 Q And Tom Dyer, do you know when he 2:11:33PM

10 started working for the beach?

11 A No. 2:11:37PM

12 Q Did you know these guys at the time 2:11:38PM

13 you went for the civil service test, or were

14 these just guys you were meeting for the first

15 time?

16 MR. NOVIKOFF: Objection. 2:11:44PM

17 You can answer. 2:11:44PM

18 A Yeah. 2:11:45PM

19 Q How did you know the Bosettis prior to 2:11:45PM

20 April of '04?

21 A From working with them or changing 2:11:50PM

22 shifts, you know, seeing them in passing.

23 Q So they were working prior to taking 2:11:54PM

24 these tests, correct?

25 MR. NOVIKOFF: Objection. You've 2:11:57PM

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1 TYREE BACON

2 already established that.

3 MR. GOODSTADT: He testified he didn't 2:11:59PM

4 know. He testified he didn't know.

5 MR. NOVIKOFF: No, he told you he knew 2:12:01PM

6 the Bosettis worked before.

7 You can answer over my objection. 2:12:05PM

8 A The Bosettis and those other 2:12:07PM

9 individuals all worked prior to us being

10 notified by civil service that we had to test.

11 Q And do you know whether the other six 2:12:16PM

12 or seven guys, the reason why they didn't take

13 the test was because of some reporting mistake?

14 A That, I don't know. 2:12:25PM

15 MR. NOVIKOFF: Objection. 2:12:26PM

16 BY MR. GOODSTADT: 2:12:31PM

17 Q How did you learn that you needed to 2:12:33PM

18 take a polygraph?

19 A I got written notification from civil 2:12:36PM

20 service.

21 Q Did you speak to anyone at civil 2:12:39PM

22 service after you got that notification to

23 discuss the test?

24 A No. 2:12:44PM

25 Q Did you speak with anybody at Ocean 2:12:45PM

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1 TYREE BACON

2 Beach about the test when you got notification?

3 A Yes. 2:12:50PM

4 Q Who did you speak with at Ocean Beach? 2:12:51PM

5 A I don't recall. 2:12:54PM

6 Q Do you recall anyone you spoke to at 2:12:55PM

7 Ocean Beach about having to take the polygraph

8 when you got notification of it?

9 MR. NOVIKOFF: Are you talking about 2:13:01PM

10 any employee of Ocean Beach, any resident of

11 Ocean Beach?

12 MR. GOODSTADT: Talking about anybody 2:13:05PM

13 at Ocean Beach, employee, resident, visitor.

14 A Spoke with Sergeant Hesse, and that's 2:13:08PM

15 where I got my packet from. He said there was a

16 packet here that I had to pick up and complete

17 and get in by a certain date.

18 Q When you say there was a packet, that 2:13:18PM

19 included in the packet the document that's been

20 marked as Bacon 1?

21 A I don't recall if they were all the 2:13:26PM

22 same a packet. I may have gotten one before the

23 other. I'm not certain.

24 Q So there was another packet that had 2:13:31PM

25 pre-polygraph questions?

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1 TYREE BACON

2 MR. NOVIKOFF: Objection. 2:13:35PM

3 A I don't recall. 2:13:37PM

4 Q Was there another set of documents 2:13:39PM

5 that were pre-polygraph questions?

6 A Yes. There was a pre polygraph 2:13:43PM

7 questionnaire that was not part of this.

8 Q Had you discussed that questionnaire 2:13:47PM

9 at all with George Hesse?

10 A Nope. 2:13:50PM

11 Q Where did you fill out the 2:13:51PM

12 pre-polygraph questionnaire?

13 A At home. 2:13:54PM

14 Q Did you have to get that document 2:13:56PM

15 notarized?

16 A I don't recall. 2:13:59PM

17 Q When did you submit your pre-polygraph 2:14:09PM

18 questionnaire?

19 A I don't recall. 2:14:12PM

20 Q Who did you submit it to? 2:14:13PM

21 A I don't recall. 2:14:16PM

22 Q Did you submit it to Ocean Beach? 2:14:17PM

23 A Yes. 2:14:21PM

24 Q So you didn't submit it to the county, 2:14:22PM

25 you submitted it to somebody at the beach?

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1 TYREE BACON

2 MR. NOVIKOFF: Objection. 2:14:26PM

3 A Yes. 2:14:27PM

4 Q Did you submit it to somebody in the 2:14:28PM

5 police department at Ocean Beach?

6 A I don't remember how we got the packet 2:14:32PM

7 in, who received it.

8 Q Had you seen copies the 2:14:38PM

9 pre-polygraph -- pre-polygraph questionnaire

10 prior to actually picking up the packet?

11 A No. 2:14:48PM

12 Q You never looked in Frank Fiorillo's 2:14:53PM

13 personnel jacket to see the pre-polygraph

14 questions?

15 MR. NOVIKOFF: Objection. Leading. 2:14:58PM

16 You can answer. 2:14:59PM

17 A No. 2:14:59PM

18 Q What were the questions that were on 2:15:01PM

19 the pre-polygraph questionnaire?

20 A I don't recall. 2:15:06PM

21 Q Do you recall any of them? 2:15:07PM

22 MR. NOVIKOFF: Specifically or 2:15:08PM

23 generally?

24 MR. GOODSTADT: I don't need to know 2:15:11PM

25 the specific word for word.

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1 TYREE BACON

2 MR. NOVIKOFF: That's what I mean. 2:15:14PM

3 MR. GOODSTADT: I want to know what 2:15:15PM

4 the questions were asking in sum and

5 substance.

6 A They asked you if you were truthful in 2:15:18PM

7 your application packet. No, I don't remember

8 anything specifically. It was all that -- in

9 that nature.

10 Q Did you keep a copy of the 2:15:31PM

11 questionnaire?

12 A No, I did not. 2:15:33PM

13 Q Did you have to fill out any other 2:15:36PM

14 paperwork for the polygraph other than for the

15 pre-polygraph questionnaire?

16 A I don't recall. 2:15:41PM

17 Q Then there came a point in time when 2:15:42PM

18 you actually went in to take the polygraph test?

19 A Yes. 2:15:46PM

20 Q And do you recall what month that was 2:15:47PM

21 in?

22 A No, I don't. 2:15:48PM

23 Q But it was some point after May 1 of 2:15:49PM

24 '05?

25 A Don't recall. 2:15:53PM

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1 TYREE BACON

2 Q Where did you take the test? 2:15:54PM

3 A Suffolk County Police headquarters. 2:15:56PM

4 Q Where is that located? 2:15:58PM

5 A In Yaphank. 2:16:00PM

6 Q Did anyone tell you that if you didn't 2:16:06PM

7 take and pass these tests, that you'd be

8 terminated as a police officer in Ocean Beach?

9 MR. NOVIKOFF: Objection. 2:16:14PM

10 A Nobody said anything in that nature. 2:16:14PM

11 Q Uh-huh. So what was your 2:16:17PM

12 understanding of why you were taking that

13 test --

14 MR. NOVIKOFF: Objection. Asked and 2:16:24PM

15 answered.

16 BY MR. GOODSTADT: 2:16:25PM

17 Q -- if you didn't need to them to 2:16:25PM

18 maintain your position as a police officer?

19 MR. NOVIKOFF: Objection. Form. 2:16:30PM

20 Asked and answered.

21 You can answer. 2:16:31PM

22 A Because there was a lapse in paperwork 2:16:32PM

23 or notification to civil service, and they were

24 trying to fill in the spaces.

25 Q Did you ever complain to anyone about 2:16:43PM

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1 TYREE BACON

2 Ed Paradiso's lapse in paperwork to civil

3 service?

4 A Nope. 2:16:49PM

5 MR. NOVIKOFF: Objection. Foundation. 2:16:50PM

6 BY MR. GOODSTADT: 2:16:51PM

7 Q Well, whose lapse was it? 2:16:52PM

8 A Chief. 2:16:55PM

9 Q Ed Paradiso? 2:16:55PM

10 A Yes. 2:16:56PM

11 Q Let me ask the question. Did you ever 2:16:59PM

12 complain to anyone about the chief's lapse in

13 paperwork?

14 MR. NOVIKOFF: Objection. 2:17:04PM

15 A Not that I recall. 2:17:06PM

16 Q Have you ever called anybody a rat? 2:17:14PM

17 A No. 2:17:17PM

18 MR. NOVIKOFF: You've got to give me a 2:17:20PM

19 chance to object.

20 THE WITNESS: Sorry. 2:17:23PM

21 MR. NOVIKOFF: Because he already 2:17:23PM

22 asked you that twice.

23 BY MR. GOODSTADT: 2:17:27PM

24 Q Prior to passing the battery of tests 2:17:29PM

25 that were required by civil service, did you

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1 **TYREE BACON**

2 **consider yourself to be a civilian?**

3 MR. NOVIKOFF: Hold on, in '04 and '05 2:17:39PM

4 we're talking about?

5 MR. GOODSTADT: Anywhere from '99 to 2:17:42PM

6 when he passed it in '04 and '05, when he

7 held the title of police officer in Ocean

8 Beach.

9 MR. NOVIKOFF: Objection to the form 2:17:51PM

10 of the question.

11 You can answer.. 2:17:52PM

12 A No. 2:17:53PM

13 **Q You considered yourself to be a police 2:17:53PM**

14 **officer?**

15 A Yes. 2:17:55PM

16 **Q Certified by the county? 2:17:55PM**

17 A And by the Bureau of Municipal Police 2:17:58PM

18 Training Council, yes.

19 **Q So if you were already certified by 2:18:04PM**

20 **the county, why did you need to take these**

21 **tests?**

22 MR. NOVIKOFF: Objection. Form. 2:18:10PM

23 Foundation.

24 You can answer. 2:18:13PM

25 A That was my question all along. I 2:18:14PM

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1 **TYREE BACON**

2 have no idea.

3 **Q Is it possible that you weren't 2:18:18PM**

4 **actually certified?**

5 MR. NOVIKOFF: Objection. Form. 2:18:20PM

6 You can answer. 2:18:21PM

7 A No, that wasn't the case. I was 2:18:22PM

8 certified, because civil service, prior to

9 completing the battery of tests, sent me a

10 letter saying it was an error that they sent me

11 through the process and that I was still

12 certified and current all along.

13 MR. GOODSTADT: I'd like to mark the 2:18:41PM

14 record to request production of a copy.

15 I'll be happy to have it subpoenaed from

16 Mr. Bacon, but if you're going to represent

17 him, I trust --

18 MR. NOVIKOFF: I am representing him. 2:18:46PM

19 MR. GOODSTADT: -- we can serve him 2:18:48PM

20 with a discovery request.

21 MR. NOVIKOFF: You don't need to 2:18:48PM

22 subpoena him, because we are representing

23 him. Your request is noted in the record.

24 I'll take it under advisement.

25

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1 **TYREE BACON**

2 BY MR. GOODSTADT: 2:18:56PM

3 **Q Do you still have a copy of that 2:18:57PM**

4 **letter?**

5 A I do not.. 2:18:59PM

6 **Q What did you do with that letter? 2:19:00PM**

7 A Probably tossed it back in 2005, 2006. 2:19:02PM

8 **Q Who sent you that letter? 2:19:07PM**

9 A Suffolk County civil service. 2:19:10PM

10 **Q Do you recall who signed it? 2:19:11PM**

11 A I don't recall who signed it, but I do 2:19:13PM

12 recall making a phone call to confirm it to

13 Allison.

14 **Q And when did you receive that letter? 2:19:23PM**

15 A Sometime in 2005 or 2006. I don't 2:19:26PM

16 recall.

17 **Q So it was after you passed all the 2:19:30PM**

18 **battery of tests that you received it, or was it**

19 **while you were undertaking the battery of tests?**

20 A While I was undertaking the battery of 2:19:38PM

21 tests.

22 **Q Let me get this. Let me try to 2:19:40PM**

23 **understand this now.**

24 **While you were in the middle of taking 2:19:43PM**

25 **the tests, you received a letter that said this**

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1 **TYREE BACON**

2 **is an error and you're certified and it's a**

3 **mistake that we're putting you through this**

4 **battery of tests?**

5 A No.. The letter stated that I was 2:19:53PM

6 fully certified, and I called and spoke to

7 Allison. It didn't say it was a mistake. I

8 called and I spoke with Allison because I was

9 questioning it. I said, you know, I still have

10 to do the psychological. And she says no, we

11 found the paperwork or whatever it was, it was a

12 paperwork error between them and Ocean Beach,

13 and I didn't have to go through any of this to

14 begin with.

15 **Q Did you end up taking the 2:20:21PM**

16 **psychological?**

17 A No, I did not. 2:20:23PM

18 **Q So did you receive that letter from 2:20:25PM**

19 **Suffolk County civil service prior to taking**

20 **your polygraph or after your polygraph?**

21 A It was after taking the polygraph. 2:20:31PM

22 **Q It was after the polygraph but prior 2:20:34PM**

23 **to getting scheduled for psychological?**

24 A Actually, I had -- 2:20:38PM

25 MR. NOVIKOFF: Objection.. 2:20:39PM

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<p>1 TYREE BACON</p> <p>2 You can answer. 2:20:40PM</p> <p>3 A I had a date for the psychological, 2:20:41PM</p> <p>4 and that was why I called to confirm, should I</p> <p>5 still go or not, and she said absolutely not.</p> <p>6 Q Did you receive anything else in 2:20:48PM</p> <p>7 writing from civil service with respect to the</p> <p>8 tests, other than for what you've testified to</p> <p>9 thus far?</p> <p>10 MR. NOVIKOFF: Objection. 2:20:56PM</p> <p>11 Like I said, unless I tell you not to 2:21:00PM</p> <p>12 answer, you may answer everything.</p> <p>13 A Yeah, not that I recall. 2:21:02PM</p> <p>14 Q Do you know whether any of the other 2:21:05PM</p> <p>15 police officers in Ocean Beach received that</p> <p>16 letter saying that they were fully certified and</p> <p>17 didn't need to finish taking the tests?</p> <p>18 A No idea.. 2:21:14PM</p> <p>19 Q Who was your supervisor on the 12 to 8 2:21:22PM</p> <p>20 tour?</p> <p>21 MR. NOVIKOFF: Objection. Form. 2:21:25PM</p> <p>22 What year? What time period? 2:21:28PM</p> <p>23 BY MR. GOODSTADT: 2:21:31PM</p> <p>24 Q In any time period. If it changed, 2:21:32PM</p> <p>25 let me know when it changed.</p>	<p>1 TYREE BACON</p> <p>2 MR. NOVIKOFF: Objection. 2:22:29PM</p> <p>3 You can answer. 2:22:30PM</p> <p>4 A He was for a brief period. 2:22:30PM</p> <p>5 Q When was that? 2:22:32PM</p> <p>6 A I don't recall. 2:22:33PM</p> <p>7 Q Was it -- do you know why he took over 2:22:35PM</p> <p>8 that position for a brief period?</p> <p>9 MR. NOVIKOFF: Don't guess. Only if 2:22:40PM</p> <p>10 you know.</p> <p>11 A No, I don't know. 2:22:42PM</p> <p>12 Q Who was the supervisor prior to him 2:22:43PM</p> <p>13 taking over for that brief period?</p> <p>14 A That was Sergeant Hesse. 2:22:47PM</p> <p>15 Q And then Paradiso took over the night, 2:22:49PM</p> <p>16 and where did Hesse go?</p> <p>17 A Days. 2:22:52PM</p> <p>18 Q And you don't know why that switch was 2:22:53PM</p> <p>19 made?</p> <p>20 A No. 2:22:55PM</p> <p>21 Q You don't recall what year it was in? 2:22:56PM</p> <p>22 A No. 2:22:58PM</p> <p>23 Q Have you ever attended any village 2:23:01PM</p> <p>24 board meetings?</p> <p>25 A No. 2:23:03PM</p>
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<p>1 TYREE BACON</p> <p>2 MR. NOVIKOFF: Still objection to 2:21:37PM</p> <p>3 form.</p> <p>4 Go ahead. 2:21:38PM</p> <p>5 A Sometimes it was then sergeant, now 2:21:38PM</p> <p>6 Deputy Chief Hesse. Sometimes we didn't have a</p> <p>7 supervisor. There were only two supervisors</p> <p>8 working for the village. One was Chief</p> <p>9 Paradiso, and for a while he was out with a</p> <p>10 line-of-duty injury, so it was just the one</p> <p>11 supervisor. So sometimes we worked without a</p> <p>12 supervisor.</p> <p>13 Q And in the chain of command example 2:21:59PM</p> <p>14 that you gave before, who would you report an</p> <p>15 incident to if you were working on a night when</p> <p>16 there was no supervisor?</p> <p>17 A To the senior officer on duty. 2:22:09PM</p> <p>18 Q And how is that defined? 2:22:11PM</p> <p>19 A The guy that's got the most time on. 2:22:13PM</p> <p>20 Q Did your time prior to your break 2:22:16PM</p> <p>21 count towards most time on?</p> <p>22 A Yes. 2:22:21PM</p> <p>23 Q Was Chief Paradiso ever in charge of 2:22:21PM</p> <p>24 your 12 to 8 tour as a supervising officer on</p> <p>25 the 12 to 8 tour?</p>	<p>1 TYREE BACON</p> <p>2 Q How long was Paradiso on the night 2:23:06PM</p> <p>3 tours?</p> <p>4 A I don't recall. A couple -- 2:23:11PM</p> <p>5 Q Was it days, weeks, months? 2:23:13PM</p> <p>6 A I don't recall. It may have been a 2:23:15PM</p> <p>7 month, a couple of months. I'm not certain.</p> <p>8 Q Did you ever ask him why you're all of 2:23:21PM</p> <p>9 a sudden the supervisor on the night tour?</p> <p>10 MR. NOVIKOFF: Objection. 2:23:25PM</p> <p>11 A No. 2:23:25PM</p> <p>12 Q Have you ever heard that it was 2:23:29PM</p> <p>13 discipline for Hesse?</p> <p>14 MR. NOVIKOFF: Objection. 2:23:34PM</p> <p>15 A No, I didn't. 2:23:35PM</p> <p>16 Q You never heard it was in response to 2:23:37PM</p> <p>17 the complaints about his performance?</p> <p>18 MR. NOVIKOFF: Objection. 2:23:42PM</p> <p>19 A No, I didn't. 2:23:43PM</p> <p>20 Q Have you ever seen Tom Snyder have a 2:24:07PM</p> <p>21 drink?</p> <p>22 A Not that I recall. 2:24:14PM</p> <p>23 Q And when I say "drink," I mean 2:24:15PM</p> <p>24 alcoholic drink.</p> <p>25 A Not that I recall. 2:24:17PM</p>

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<p>1 TYREE BACON</p> <p>2 Q And in fact, Tom Snyder had a liver 2:24:22PM</p> <p>3 problem, correct?</p> <p>4 MR. NOVIKOFF: Objection. Leading. 2:24:25PM</p> <p>5 A I don't know. 2:24:26PM</p> <p>6 Q You don't recall Tom Snyder being sick 2:24:26PM</p> <p>7 at any point while you worked with him?</p> <p>8 A No. 2:24:31PM</p> <p>9 Q You don't recall him being on 2:24:31PM</p> <p>10 chemotherapy?</p> <p>11 A No, I don't. 2:24:34PM</p> <p>12 Q Who in Ocean Beach was responsible for 2:24:43PM</p> <p>13 making sure that officers passed the requisite</p> <p>14 tests?</p> <p>15 MR. NOVIKOFF: Objection. 2:24:51PM</p> <p>16 A That would've been the chief. 2:24:55PM</p> <p>17 Q So it was Chief Paradiso up until the 2:24:57PM</p> <p>18 time that he went out and George Hesse became</p> <p>19 chief?</p> <p>20 A Correct. 2:25:02PM</p> <p>21 Q Other than for the two telephone calls 2:25:10PM</p> <p>22 you have now testified to that you had with</p> <p>23 Allison Chester, how many other times have you</p> <p>24 had correspondence or communication with her?</p> <p>25 A Prior to this or total? 2:25:22PM</p>	<p>1 TYREE BACON</p> <p>2 winter, you know, during that time frame.</p> <p>3 Q Other than for that time frame, have 2:26:30PM</p> <p>4 you ever used the Ocean Beach police barracks as</p> <p>5 your address?</p> <p>6 A No. 2:26:36PM</p> <p>7 Q Did you ever receive any performance 2:26:36PM</p> <p>8 evaluations when you worked at Ocean Beach?</p> <p>9 MR. NOVIKOFF: Objection. Form. 2:26:42PM</p> <p>10 A None that I recall. 2:26:43PM</p> <p>11 Q Have you ever been told that you need 2:26:45PM</p> <p>12 to write more summonses?</p> <p>13 A No. 2:26:48PM</p> <p>14 Q Have you ever been told you write too 2:26:56PM</p> <p>15 many summonses?</p> <p>16 A No. 2:26:59PM</p> <p>17 Q Have you ever heard anyone else told 2:26:59PM</p> <p>18 that they write too many summonses?</p> <p>19 MR. NOVIKOFF: Objection. 2:27:04PM</p> <p>20 BY MR. GOODSTADT: 2:27:04PM</p> <p>21 Q Anyone else in the Ocean Beach Police 2:27:04PM</p> <p>22 Department.</p> <p>23 A Yes. 2:27:05PM</p> <p>24 Q Who was told they write too many 2:27:06PM</p> <p>25 summonses?</p>
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<p>1 TYREE BACON</p> <p>2 Q At any point in time from the day you 2:25:25PM</p> <p>3 were born until today.</p> <p>4 A Those were the two. There may have 2:25:28PM</p> <p>5 been another one that I can't be specific on,</p> <p>6 but both of them -- any of the calls related to</p> <p>7 me taking this battery of civil service tests.</p> <p>8 Q Have you ever met her -- 2:25:45PM</p> <p>9 A No, I have not. 2:25:46PM</p> <p>10 Q -- in person? 2:25:47PM</p> <p>11 Have you ever used the Ocean Beach 2:25:54PM</p> <p>12 police barracks as your address?</p> <p>13 A Yes. 2:25:57PM</p> <p>14 Q How many times? 2:25:58PM</p> <p>15 A Once. 2:25:59PM</p> <p>16 Q What did you use the Ocean Beach 2:26:01PM</p> <p>17 police barracks for as your address?</p> <p>18 A Back in the '90s, in order to get an 2:26:06PM</p> <p>19 Islip town beach permit and a Fire Island</p> <p>20 national seashore permit to drive your vehicle</p> <p>21 back and forth to the village, you had to have</p> <p>22 an address, and that's what we did.</p> <p>23 Q When you say "we," who are you 2:26:21PM</p> <p>24 referring to?</p> <p>25 A The entire department who worked the 2:26:23PM</p>	<p>1 TYREE BACON</p> <p>2 A Officer Fiorillo. 2:27:08PM</p> <p>3 Q When did you hear him told that? 2:27:09PM</p> <p>4 A Probably since he's been there. 2:27:13PM</p> <p>5 Q How many times? 2:27:15PM</p> <p>6 A Once. 2:27:18PM</p> <p>7 Q Who did you hear say that? 2:27:19PM</p> <p>8 A Chief Hesse, Sergeant Hesse, whatever 2:27:21PM</p> <p>9 his title was at the time.</p> <p>10 Q What exactly did he say, if you 2:27:30PM</p> <p>11 recall?</p> <p>12 A He was interested in quality, not 2:27:34PM</p> <p>13 quantity, that it took more than just numbers to</p> <p>14 justify good activity.</p> <p>15 Q What do you mean by quality, not 2:27:43PM</p> <p>16 quantity?</p> <p>17 MR. NOVIKOFF: Hold on. I'm going to 2:27:46PM</p> <p>18 object only because he's paraphrasing what</p> <p>19 Hesse said --</p> <p>20 BY MR. GOODSTADT: 2:27:51PM</p> <p>21 Q Do you know what Hesse meant when he 2:27:52PM</p> <p>22 said quality, not quantity?</p> <p>23 MR. CONNOLLY: Objection. 2:27:58PM</p> <p>24 A No. 2:27:59PM</p> <p>25 Q Did you know what Hesse meant when he 2:27:59PM</p>

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<p>1 TYREE BACON</p> <p>2 said it takes more than numbers to show good</p> <p>3 performance?</p> <p>4 A No. 2:28:04PM</p> <p>5 Q Did the chief ever -- Chief Paradiso 2:28:07PM</p> <p>6 ever speak to you about the number of summonses</p> <p>7 that you wrote?</p> <p>8 A No. 2:28:12PM</p> <p>9 Q You don't recall being in a meeting 2:28:14PM</p> <p>10 where the chief had on the board on two sides a</p> <p>11 list of people who wrote summonses and a list of</p> <p>12 people who wrote no summonses?</p> <p>13 A No. 2:28:24PM</p> <p>14 Q You don't recall saying if the 2:28:32PM</p> <p>15 Bosettis aren't gonna write summonses, I don't</p> <p>16 have to?</p> <p>17 A I probably said that somewhere along 2:28:38PM</p> <p>18 the line.</p> <p>19 Q What did you mean by that? 2:28:40PM</p> <p>20 A Just being a smart Alec. 2:28:42PM</p> <p>21 Q Did the Bosettis have a reputation of 2:28:43PM</p> <p>22 not writing any summonses?</p> <p>23 A They had a reputation of being very 2:28:48PM</p> <p>24 laid back.</p> <p>25 Q What do you mean by that? 2:28:51PM</p>	<p>1 TYREE BACON</p> <p>2 Q Do you know how many summonses you 2:29:54PM</p> <p>3 issued in 2007?</p> <p>4 A No idea. 2:29:57PM</p> <p>5 Q Do you know approximately how many? 2:29:58PM</p> <p>6 A No. 2:29:59PM</p> <p>7 MR. GOODSTADT: Let's mark this. 2:30:04PM</p> <p>8 MR. NOVIKOFF: Bacon 2. 2:30:07PM</p> <p>9 (Whereupon, Bates document 5335-37 was 2:30:08PM</p> <p>10 marked as Bacon Exhibit 2 for</p> <p>11 identification, as of this date.)</p> <p>12 MR. GOODSTADT: I've placed in front 2:30:30PM</p> <p>13 of Mr. Bacon what's been marked as Bacon 2.</p> <p>14 It is a three-page exhibit bearing Bates</p> <p>15 numbers 5335 through 5337. (Handing.)</p> <p>16 BY MR. GOODSTADT: 2:30:45PM</p> <p>17 Q Mr. Bacon, do you recognize the 2:30:44PM</p> <p>18 document that's been marked as Bacon 2?</p> <p>19 A No, never saw it. 2:30:48PM</p> <p>20 Q You never saw this document? 2:30:50PM</p> <p>21 A No. 2:30:52PM</p> <p>22 Q Did you ever speak to George Hesse 2:30:53PM</p> <p>23 about any yearly performance report?</p> <p>24 A No. 2:30:57PM</p> <p>25 Q It says in the middle of the probably 2:30:59PM</p>
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<p>1 TYREE BACON</p> <p>2 A I think that speaks for itself. 2:28:53PM</p> <p>3 Q What about them led to the reputation 2:28:55PM</p> <p>4 of being very laid back?</p> <p>5 A They were two highly decorated 2:28:58PM</p> <p>6 emergency service police officers from New York</p> <p>7 City; and working in Ocean Beach, the</p> <p>8 environment was a whole lot different than some</p> <p>9 of the things that they had experienced, so they</p> <p>10 were laid back.</p> <p>11 Q What were the differences, if you 2:29:14PM</p> <p>12 know?</p> <p>13 A Well, as an emergency service officer, 2:29:16PM</p> <p>14 they would often be the first ones in the door</p> <p>15 facing a heavily armed suspect that was</p> <p>16 barricaded. Fortunately, in Ocean Beach, that's</p> <p>17 not what we deal with. We deal with a transient</p> <p>18 population, a lot of people there that vacation</p> <p>19 in the summertime.</p> <p>20 Q So what do they do that led to the 2:29:33PM</p> <p>21 reputation that they were laid back?</p> <p>22 A They were just very easy going.. 2:29:38PM</p> <p>23 Q Did they have a reputation of not 2:29:41PM</p> <p>24 issuing summonses?</p> <p>25 A That may have been part of it. 2:29:45PM</p>	<p>1 TYREE BACON</p> <p>2 top third under "general enforcement against</p> <p>3 crime, quality of life and other violations" --</p> <p>4 do you see that section?</p> <p>5 A Yes. 2:31:14PM</p> <p>6 Q The third line down, handwritten line 2:31:15PM</p> <p>7 down, it says "needs to write more summonses."</p> <p>8 Do you see that? 2:31:20PM</p> <p>9 A Yes. 2:31:20PM</p> <p>10 Q Do you know what that means? 2:31:21PM</p> <p>11 MR. NOVIKOFF: Objection. 2:31:22PM</p> <p>12 A Perhaps I needed to write more 2:31:24PM</p> <p>13 summonses.</p> <p>14 MR. NOVIKOFF: No. If you know, you 2:31:26PM</p> <p>15 know. If you don't, you don't.</p> <p>16 Are you asking him what he believes 2:31:30PM</p> <p>17 the author of this document meant or --</p> <p>18 MR. GOODSTADT: I'm asking if he knows 2:31:35PM</p> <p>19 what it means.</p> <p>20 MR. NOVIKOFF: Objection to the form. 2:31:37PM</p> <p>21 You can answer the question. 2:31:38PM</p> <p>22 A Sure. No, I'm not sure. 2:31:39PM</p> <p>23 Q Do you know who wrote this document? 2:31:42PM</p> <p>24 A Nope. 2:31:44PM</p> <p>25 Q You don't recognize the handwriting? 2:31:45PM</p>

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<p>1 TYREE BACON</p> <p>2 A It says George Hesse, but I didn't see 2:31:47PM</p> <p>3 him write it.</p> <p>4 Q Do you recognize this handwriting as 2:31:50PM</p> <p>5 George Hesse's?</p> <p>6 A No, I don't recognize this handwriting 2:31:52PM</p> <p>7 as George Hesse's.</p> <p>8 Q If you look down under the additional 2:31:55PM</p> <p>9 supervisory comments, it says "needs to complete</p> <p>10 assigned training."</p> <p>11 Do you see what that means -- do you 2:32:00PM</p> <p>12 see that?</p> <p>13 A Yes. 2:32:02PM</p> <p>14 Q Do you know what that means? 2:32:02PM</p> <p>15 A No. 2:32:03PM</p> <p>16 Q And it's your testimony that this was 2:32:06PM</p> <p>17 never delivered to you, this document?</p> <p>18 MR. NOVIKOFF: Objection. 2:32:09PM</p> <p>19 A Correct. 2:32:10PM</p> <p>20 Q Did you ever speak with Chief Paradiso 2:32:20PM</p> <p>21 about the number of summonses that you issued?</p> <p>22 A No. 2:32:25PM</p> <p>23 Q Did you ever receive an employee 2:32:26PM</p> <p>24 handbook when you worked for the beach?</p> <p>25 A No. 2:32:30PM</p>	<p>1 TYREE BACON</p> <p>2 MR. NOVIKOFF: I want you to take as 2:33:44PM</p> <p>3 little much or as much time as you need to</p> <p>4 review the document, if at all, before you</p> <p>5 answer the question.</p> <p>6 While he's looking, did you mention 2:34:04PM</p> <p>7 the Bates numbers?</p> <p>8 MR. GOODSTADT: Yeah. 2:34:07PM</p> <p>9 MR. NOVIKOFF: Okay. 2:34:07PM</p> <p>10 A Yeah, I remember seeing this. Yes. 2:34:11PM</p> <p>11 Q Where did you see this? 2:34:13PM</p> <p>12 A In the police station. 2:34:15PM</p> <p>13 Q Is this the one that you testified to 2:34:16PM</p> <p>14 a moment ago that was posted on the wall?</p> <p>15 MR. NOVIKOFF: Objection. 2:34:22PM</p> <p>16 You can answer. 2:34:22PM</p> <p>17 A There was one that was posted on the 2:34:24PM</p> <p>18 wall, yes.</p> <p>19 Q That looked like this, or was it 2:34:26PM</p> <p>20 something different?</p> <p>21 MR. NOVIKOFF: Objection. 2:34:29PM</p> <p>22 A A little different than this, similar. 2:34:30PM</p> <p>23 Q What was different about the one on 2:34:33PM</p> <p>24 the wall and the one that's been marked?</p> <p>25 A The typeset. 2:34:37PM</p>
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<p>1 TYREE BACON</p> <p>2 Q Have you ever seen an employee 2:32:35PM</p> <p>3 handbook for Ocean Beach?</p> <p>4 A Yes. 2:32:39PM</p> <p>5 Q When did you see an employee handbook 2:32:39PM</p> <p>6 for Ocean Beach?</p> <p>7 A I think I've seen it in the station, 2:32:43PM</p> <p>8 maybe posted on a bulletin board somewhere.</p> <p>9 Q Did you ever look at it? 2:32:48PM</p> <p>10 A No. 2:32:49PM</p> <p>11 Q No? I assume you never signed a copy 2:32:50PM</p> <p>12 of it?</p> <p>13 A I may have. I don't recall. Show it 2:32:55PM</p> <p>14 to me, refresh my recollection, and I can give</p> <p>15 you a definitive answer.</p> <p>16 (Whereupon, Bates document 1-25 was 2:33:05PM</p> <p>17 marked as Bacon Exhibit 3 for</p> <p>18 identification, as of this date.)</p> <p>19 MR. GOODSTADT: I've placed in front 2:33:27PM</p> <p>20 of Mr. Bacon what's been marked as Bacon 3.</p> <p>21 It's a multiple-page exhibit bearing Bates 1</p> <p>22 through 25. (Hanging.)</p> <p>23 BY MR. GOODSTADT: 2:33:38PM</p> <p>24 Q Mr. Bacon, have you ever seen the 2:33:38PM</p> <p>25 document that's been marked as Bacon Exhibit 3?</p>	<p>1 TYREE BACON</p> <p>2 Q What was different about the one on 2:34:38PM</p> <p>3 the wall and the one marked as Bacon 3?</p> <p>4 MR. NOVIKOFF: Objection. 2:34:42PM</p> <p>5 If you can answer. 2:34:42PM</p> <p>6 A Yeah, I'm not quite sure. It just 2:34:44PM</p> <p>7 looked a little different.</p> <p>8 Q Was it a different font? 2:34:48PM</p> <p>9 A The typeset on the cover looks a 2:34:50PM</p> <p>10 little bit different, yes.</p> <p>11 Q Is it still in the Ocean Beach -- 2:34:55PM</p> <p>12 strike that.</p> <p>13 The last time you were at the Ocean 2:34:57PM</p> <p>14 Beach police station, was it still hanging on</p> <p>15 the bulletin board?</p> <p>16 A I don't recall. 2:35:02PM</p> <p>17 Q When was the last time you were at the 2:35:03PM</p> <p>18 police station?</p> <p>19 A Six months ago or better. 2:35:09PM</p> <p>20 Q What was the last tour you worked? 2:35:12PM</p> <p>21 A Probably six months ago or better. 2:35:14PM</p> <p>22 Q Are you still employed by Ocean Beach? 2:35:16PM</p> <p>23 A Yes. 2:35:18PM</p> <p>24 Q And what's your current title? 2:35:19PM</p> <p>25 A Part-time police officer. 2:35:20PM</p>

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1 TYREE BACON

2 **Q Have you worked any tours since Labor 2:35:25PM**

3 **Day of '08?**

4 A I may have worked one or two. 2:35:30PM

5 **Q Are you collecting unemployment? 2:35:33PM**

6 A No. 2:35:35PM

7 **Q If you look at page that bears Bates 2:35:37PM**

8 **No. 00004.**

9 A (Witness complies.) 2:35:44PM

10 **Q Do you see that page? 2:35:54PM**

11 A Yes. 2:35:55PM

12 **Q Do you recall whether you ever signed 2:35:55PM**

13 **this page or a copy of this page?**

14 A I don't recall. 2:36:00PM

15 **Q And do you recall ever receiving an 2:36:03PM**

16 **evaluation, written evaluation of your**

17 **performance?**

18 A None that I've ever reviewed, no. 2:36:10PM

19 **Q Did you ever receive any verbal 2:36:11PM**

20 **evaluations of your performance?**

21 MR. NOVIKOFF: Objection. Form. 2:36:16PM

22 A No.. 2:36:17PM

23 **Q If you look at the page that's been 2:36:38PM**

24 **marked as 00010.**

25 A (Witness complies.) 2:36:45PM

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1 TYREE BACON

2 **Q Under the employee performance 2:36:50PM**

3 **appraisal.**

4 **Do you see that? 2:36:53PM**

5 A Yes. 2:36:57PM

6 **Q Okay. It says, "Newly hired employees 2:36:57PM**

7 **may receive performance appraisals after**

8 **30 days."**

9 **Do you see that? 2:37:03PM**

10 A Yes. 2:37:04PM

11 **Q Did you receive any performance 2:37:05PM**

12 **appraisal after 30 days of employment either on**

13 **your first stint there or your second stint**

14 **there?**

15 A None that I recall. 2:37:12PM

16 **Q And it says, "and a more formal 2:37:13PM**

17 **evaluation at the end of six months."**

18 **Do you see that? 2:37:17PM**

19 A Yes. 2:37:17PM

20 **Q Did you receive a formal evaluation at 2:37:18PM**

21 **the end of six months either in your first stint**

22 **there or when you returned in '99?**

23 A None that I recall. 2:37:25PM

24 **Q It says, "Thereafter, all employees 2:37:25PM**

25 **may receive a performance appraisal annually."**

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1 TYREE BACON

2 **Do you see that? 2:37:28PM**

3 A Yes. 2:37:29PM

4 **Q Do you recall ever receiving an annual 2:37:29PM**

5 **performance appraisal?**

6 A Nope. 2:37:33PM

7 **Q Did you receive raises each year that 2:37:39PM**

8 **you worked at Ocean Beach?**

9 A Yes. 2:37:42PM

10 MR. GOODSTADT: Just mark that, 2:37:50PM

11 please.

12 (Whereupon, Bates document 5600 was 2:37:51PM

13 marked as Bacon Exhibit 4 for

14 identification, as of this date.)

15 MR. GOODSTADT: I've placed in front 2:38:13PM

16 of Bacon what's been marked as Bacon 4. It

17 is a one-page exhibit bearing Bates 5600.

18 (Handing.)

19 BY MR. GOODSTADT: 2:38:28PM

20 **Q Mr. Bacon, have you ever seen the 2:38:28PM**

21 **document marked as Bacon 4?**

22 A No, I haven't. 2:38:29PM

23 **Q I represent to you that it's a 2:38:29PM**

24 **document that was produced by counsel**

25 **representing the beach in this matter. I just**

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1 TYREE BACON

2 **want to look down. If you look down the**

3 **dates -- do you see the dates column?**

4 A Yes. 2:38:44PM

5 **Q And then next to it is the position 2:38:44PM**

6 **and classification.**

7 **Do you see that? 2:38:47PM**

8 A Yes. 2:38:48PM

9 **Q Is that position and classification 2:38:48PM**

10 **accurate for those dates?**

11 MR.. NOVIKOFF: Objection. 2:38:51PM

12 A Rephrase that. 2:38:53PM

13 **Q Are those positions and 2:38:54PM**

14 **classifications listed next to the dates**

15 **accurate for the corresponding dates?**

16 MR. NOVIKOFF: Objection. 2:39:01PM

17 You can answer, if you can. 2:39:07PM

18 A Yeah. Yes and no. 2:39:09PM

19 **Q What's not accurate? 2:39:11PM**

20 A Well, leave of absence, I wasn't 2:39:12PM

21 working for them at that time when they have it

22 listed as leave of absence. I worked for

23 various other agencies during that time frame,

24 all within Suffolk County, you know.

25 **Q So you weren't on a leave of absence? 2:39:25PM**

<p style="text-align: right;">Page 221</p> <p>1 TYREE BACON</p> <p>2 A No. 2:39:28PM</p> <p>3 Q Your employment actually ended in '93 2:39:28PM</p> <p>4 and then you became reemployed in '99?</p> <p>5 A With respect to the Village of Ocean 2:39:32PM</p> <p>6 Beach, yes..</p> <p>7 Q Right. That's what -- I'm just 2:39:35PM</p> <p>8 focusing on that right now.</p> <p>9 A Yes. 2:39:39PM</p> <p>10 Q Are the rates of pay -- well, strike 2:39:39PM</p> <p>11 that.</p> <p>12 Other than for the use of the verbiage 2:39:42PM</p> <p>13 "leave of absence," is there anything else not</p> <p>14 accurate in the position and classification</p> <p>15 column?</p> <p>16 MR. NOVIKOFF: Note my objection. 2:39:51PM</p> <p>17 You can answer. 2:39:52PM</p> <p>18 A The salaries look about right. I'm 2:39:54PM</p> <p>19 not 100 percent certain.</p> <p>20 Q I was asking whether anything was not 2:40:01PM</p> <p>21 accurate about the position and classification</p> <p>22 column other than for the use of leave of</p> <p>23 absence?</p> <p>24 MR. NOVIKOFF: Note my objection. 2:40:09PM</p> <p>25 You can answer. 2:40:11PM</p>	<p style="text-align: right;">Page 223</p> <p>1 TYREE BACON</p> <p>2 raise every single year?</p> <p>3 A Yes. 2:40:53PM</p> <p>4 Q Was the raise that you received 2:40:54PM</p> <p>5 performance based or did everybody receive the</p> <p>6 same raise?</p> <p>7 MR. NOVIKOFF: Objection. 2:41:00PM</p> <p>8 To the extent you know. 2:41:00PM</p> <p>9 A I can't -- I can't, you know, explain 2:41:02PM</p> <p>10 for the other officers. I mean, myself, I</p> <p>11 received a raise every year, and I don't know if</p> <p>12 it was performance based or not.</p> <p>13 Q Do you know who was in charge of 2:41:12PM</p> <p>14 deciding that you should get a raise each of</p> <p>15 those years?</p> <p>16 MR. NOVIKOFF: Objection. 2:41:16PM</p> <p>17 A No, I don't. 2:41:17PM</p> <p>18 Q Do you know the process behind the 2:41:18PM</p> <p>19 decision of whether or not to give you a raise</p> <p>20 each year?</p> <p>21 MR. NOVIKOFF: Objection. 2:41:24PM</p> <p>22 A No, I don't. 2:41:25PM</p> <p>23 Q Do you know the process behind 2:41:26PM</p> <p>24 determining how much raise to give you each</p> <p>25 year?</p>
<p style="text-align: right;">Page 222</p> <p>1 TYREE BACON</p> <p>2 BY MR. GOODSTADT: 2:40:11PM</p> <p>3 Q I'm just focused on the one column. 2:40:13PM</p> <p>4 A Yeah. Other than the leave of 2:40:15PM</p> <p>5 absence, because I wasn't working for them then.</p> <p>6 Q Okay. But is there anything else, 2:40:19PM</p> <p>7 other than for the leave of absence, that's not</p> <p>8 accurate?</p> <p>9 A No. Everything else, that I was 2:40:23PM</p> <p>10 employed by them as a police officer, is</p> <p>11 accurate.</p> <p>12 Q Now, the rates of pay, you testified 2:40:28PM</p> <p>13 they look about right, but you're not sure if</p> <p>14 they're accurate?</p> <p>15 A Correct. 2:40:33PM</p> <p>16 Q But there's nothing there that leads 2:40:33PM</p> <p>17 you to believe that that's not the accurate</p> <p>18 number, is there?</p> <p>19 MR. NOVIKOFF: Objection. 2:40:39PM</p> <p>20 A No, there's nothing that would lead me 2:40:40PM</p> <p>21 to believe it's not accurate, correct.</p> <p>22 Q And do you see you were given a raise 2:40:45PM</p> <p>23 every single year that you worked there?</p> <p>24 A Yes. 2:40:49PM</p> <p>25 Q Now, that's accurate, you received a 2:40:49PM</p>	<p style="text-align: right;">Page 224</p> <p>1 TYREE BACON</p> <p>2 MR. NOVIKOFF: Objection. Form. 2:41:29PM</p> <p>3 A I wasn't privy to any of that 2:41:30PM</p> <p>4 information.</p> <p>5 Q Who communicated to you that you were 2:41:32PM</p> <p>6 getting a raise?</p> <p>7 MR. NOVIKOFF: Objection. Form. 2:41:35PM</p> <p>8 A We usually hear the beginning of July 2:41:37PM</p> <p>9 we were getting a raise from the chief, the</p> <p>10 sergeant, whoever it was; and on our next</p> <p>11 paycheck, there it was, we got a raise.</p> <p>12 Q When you say the beginning of the 2:41:48PM</p> <p>13 year, what are you referring to?</p> <p>14 A The beginning of the summer season. 2:41:51PM</p> <p>15 Q Was that the preseason meeting? 2:41:52PM</p> <p>16 A I don't recall. 2:41:54PM</p> <p>17 Q Do you know what I'm saying when I say 2:41:54PM</p> <p>18 a preseason meeting?</p> <p>19 A Yes. 2:41:58PM</p> <p>20 Q What's a preseason meeting? 2:41:58PM</p> <p>21 A It was a team meeting, where they get 2:42:00PM</p> <p>22 all the officers together to go over, make sure</p> <p>23 paperwork was right. Basically, it was a team</p> <p>24 meeting, just what the expectations were for the</p> <p>25 up and coming year.</p>

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1 TYREE BACON

2 **Q What do you mean make sure paperwork 2:42:14PM**

3 **was right?**

4 A Make sure people had updated, what is 2:42:17PM

5 it, W-2s and W-4s, tax paperwork. If you have

6 pay statements, whether you were claiming one or

7 two dependents, stuff like that.

8 **Q Do you know whether anybody voted on 2:42:32PM**

9 **the pay raises?**

10 MR. NOVIKOFF: Objection. 2:42:36PM

11 A Don't know. 2:42:37PM

12 **Q Did you ever collect unemployment in 2:42:39PM**

13 **between seasons?**

14 A No, I did not. 2:42:42PM

15 **Q Did you ever apply for unemployment in 2:42:43PM**

16 **between seasons?**

17 A No. 2:42:46PM

18 **Q That was because you had a full-time 2:42:46PM**

19 **job?**

20 A Correct. 2:42:49PM

21 **Q Did you have to reapply for a position 2:42:54PM**

22 **each season?**

23 A I did not. 2:42:57PM

24 **Q So did you remain employed throughout 2:43:01PM**

25 **the year?**

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1 TYREE BACON

2 MR. NOVIKOFF: Objection. 2:43:04PM

3 A Yes. My status was part-time police 2:43:05PM

4 officer.

5 **Q So it's your understanding that your 2:43:07PM**

6 **status was part-time police officer, meaning**

7 **that you can work up to 20 hours during the**

8 **whole year; is that your understanding?**

9 A Correct. 2:43:20PM

10 **Q And is it your understanding that if 2:43:20PM**

11 **you were a part-time police officer, that you**

12 **didn't have to do anything to be, quote-unquote,**

13 **rehired each season?**

14 MR. NOVIKOFF: Objection. 2:43:29PM

15 BY MR. GOODSTADT: 2:43:29PM

16 **Q Is that correct? 2:43:30PM**

17 A I'm not sure how that all worked out. 2:43:30PM

18 **Q Well, did you fill out any paperwork 2:43:33PM**

19 **to be rehired?**

20 A No, I didn't have to reapply for the 2:43:37PM

21 position every year. No, I did not.

22 **Q Were you ever notified that we're 2:43:41PM**

23 **rehiring you?**

24 A Yes. 2:43:44PM

25 **Q How were you notified that you were 2:43:44PM**

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1 TYREE BACON

2 **being rehired?**

3 MR. NOVIKOFF: I'm sorry, what's the 2:43:49PM

4 question? I didn't catch the first few

5 words.

6 MR. GOODSTADT: Were you ever notified 2:43:54PM

7 that you were rehired, and he said "yes."

8 BY MR. GOODSTADT: 2:43:54PM

9 **Q Other than for the rehiring in 1999, 2:43:57PM**

10 **were you notified each year that you were**

11 **rehired?**

12 A Prior to that and after that, yes, but 2:44:02PM

13 there was a break in service where I wasn't

14 invited back.

15 **Q I'm not asking about whether you were 2:44:10PM**

16 **invited back. I'm talking about the years that**

17 **you came back. Were you notified you were**

18 **rehired?**

19 A No. We just -- you came to the 2:44:16PM

20 preseason meeting.

21 **Q So just so I'm clear for the record. 2:44:24PM**

22 **Each year you came to the preseason meeting, you**

23 **didn't have to fill out any new paperwork for**

24 **the season, you just had to make sure your tax**

25 **forms were up to date; is that correct?**

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1 TYREE BACON

2 A Correct. 2:44:35PM

3 **Q You didn't receive any notice that 2:44:35PM**

4 **said, you know, anything in sum and substance,**

5 **congratulations, you've been rehired by Ocean**

6 **Beach for this season or you're being hired by**

7 **Ocean Beach for this season?**

8 A No, I never received that. 2:44:45PM

9 **Q How about verbally? Did anybody ever 2:44:47PM**

10 **tell you verbally tell you in sum or substance,**

11 **congratulations, you're being rehired for the**

12 **season or you're being hired for the season?**

13 A No. 2:44:54PM

14 **Q Other than for '99? 2:44:54PM**

15 A No. 2:44:57PM

16 MR. GOODSTADT: Why don't we take a 2:45:02PM

17 break.

18 THE VIDEOGRAPHER: The time is 2:46. 2:45:04PM

19 We are going off the record.

20 (Whereupon, a discussion was held off 2:49:36PM

21 the record.)

22 THE VIDEOGRAPHER: The time is 2:54. 2:53:22PM

23 We are back on the record.

24 BY MR. GOODSTADT: 2:53:26PM

25 **Q Mr. Bacon, just so I'm clear, other 2:53:28PM**

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<p>1 TYREE BACON</p> <p>2 than for the polygraph that you failed in</p> <p>3 Riverhead and then the one that you subsequently</p> <p>4 passed in '05 for Ocean Beach, have you taken</p> <p>5 any other polygraphs for any other jobs that you</p> <p>6 applied for?</p> <p>7 MR. NOVIKOFF: Objection. 2:53:44PM</p> <p>8 A I don't recall. 2:53:45PM</p> <p>9 Q Have you ever seen a job description 2:53:50PM</p> <p>10 or duty classification for a police officer in</p> <p>11 Ocean Beach?</p> <p>12 A No. 2:53:58PM</p> <p>13 MR. GOODSTADT: Just mark this. 2:54:15PM</p> <p>14 (Whereupon, Police Officer 2:54:17PM</p> <p>15 Part-Time/Seasonal was marked as Bacon</p> <p>16 Exhibit 5 for identification, as of this</p> <p>17 date.)</p> <p>18 MR. GOODSTADT: I've placed in front 2:54:50PM</p> <p>19 of Mr. Bacon what's been marked as Bacon</p> <p>20 Exhibit 5. It is a two-page exhibit</p> <p>21 entitled "Police Officer</p> <p>22 Part-Time/Seasonal." (Handing.)</p> <p>23 BY MR. GOODSTADT: 2:55:06PM</p> <p>24 Q Mr. Bacon, have you ever seen this 2:55:05PM</p> <p>25 document?</p>	<p>1 TYREE BACON</p> <p>2 MR. NOVIKOFF: Yeah, let's mark 2:56:30PM</p> <p>3 another one.</p> <p>4 MR. GOODSTADT: Are you okay with 2:56:34PM</p> <p>5 swapping it in?</p> <p>6 MR. NOVIKOFF: I'd prefer to mark it. 2:56:36PM</p> <p>7 MR. GOODSTADT: You'd prefer to mark 2:56:39PM</p> <p>8 it?</p> <p>9 MR. NOVIKOFF: Yeah, mark it. 2:56:40PM</p> <p>10 MR. GOODSTADT: I'd like to mark it 2:56:40PM</p> <p>11 Bacon 6.</p> <p>12 MR. NOVIKOFF: I'll just make a note 2:56:43PM</p> <p>13 you'll get us a copy of Bacon 6?</p> <p>14 MR. GOODSTADT: Okay. I think you 2:56:47PM</p> <p>15 have Bacon 6, right?</p> <p>16 MR. NOVIKOFF: No. You're remarking a 2:56:49PM</p> <p>17 new document. Do you have enough copies for</p> <p>18 everybody?</p> <p>19 MR. GOODSTADT: It's the exact same 2:56:52PM</p> <p>20 thing you have.</p> <p>21 MR. CONNOLLY: With the cover page 2:56:55PM</p> <p>22 marked.</p> <p>23 (Whereupon, Police Candidate 2:57:02PM</p> <p>24 Application Packet was marked as Bacon</p> <p>25 Exhibit 6 for identification, as of this</p>
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<p>1 TYREE BACON</p> <p>2 A I don't recall. 2:55:08PM</p> <p>3 Q You don't recall one way or the other? 2:55:08PM</p> <p>4 A Correct. 2:55:11PM</p> <p>5 Q Did you ever go on Suffolk County 2:55:12PM</p> <p>6 civil service's website to look at the job</p> <p>7 description of a police officer part-time or a</p> <p>8 police officer seasonal?</p> <p>9 MR. NOVIKOFF: Objection. 2:55:20PM</p> <p>10 A I have not. 2:55:21PM</p> <p>11 Q If you go back to Bacon 1. 2:55:32PM</p> <p>12 MR. NOVIKOFF: It's in that pile. 2:55:40PM</p> <p>13 A (Witness complies.) 2:55:43PM</p> <p>14 Q If you look at Page 7367. 2:55:47PM</p> <p>15 A Don't have it in this package. 2:56:08PM</p> <p>16 MR. NOVIKOFF: No, the bottom, 7367. 2:56:11PM</p> <p>17 MR. GOODSTADT: Is it missing a page 2:56:13PM</p> <p>18 there?</p> <p>19 MR. NOVIKOFF: Then it's 4, then 2:56:15PM</p> <p>20 it's 5.</p> <p>21 THE WITNESS: 5, and then it jumps 2:56:17PM</p> <p>22 to 9.</p> <p>23 MR. NOVIKOFF: I have it in mine. 2:56:19PM</p> <p>24 MR.. CONNOLLY: Do you want to mark 2:56:29PM</p> <p>25 another one?</p>	<p>1 TYREE BACON</p> <p>2 date.)</p> <p>3 A Page number again? 2:57:29PM</p> <p>4 Q 7367. 2:57:32PM</p> <p>5 A Okay. 2:57:35PM</p> <p>6 Q Have you ever seen this description of 2:57:36PM</p> <p>7 an entry-level police officer?</p> <p>8 A Yes. 2:57:40PM</p> <p>9 Q Okay. When was the first time you saw 2:57:41PM</p> <p>10 this description?</p> <p>11 A Probably when I got my packet. 2:57:45PM</p> <p>12 Q Was it in the packet that you had 2:57:46PM</p> <p>13 testified to that you filled out the first time</p> <p>14 around?</p> <p>15 MR. NOVIKOFF: Objection. 2:57:50PM</p> <p>16 A I don't recall. 2:57:51PM</p> <p>17 Q Okay. And is the -- as an Ocean Beach 2:57:52PM</p> <p>18 police officer, you had the authority to arrest;</p> <p>19 is that correct?</p> <p>20 A Yes.. 2:58:04PM</p> <p>21 Q And how far jurisdictionally did your 2:58:07PM</p> <p>22 authority to arrest extend?</p> <p>23 MR. NOVIKOFF: Objection. 2:58:12PM</p> <p>24 You can answer. 2:58:13PM</p> <p>25 A Throughout New York State. 2:58:14PM</p>

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<p>1 TYREE BACON</p> <p>2 Q Is that for felonies and misdemeanors? 2:58:17PM</p> <p>3 A Correct. 2:58:21PM</p> <p>4 Q How about for violations? 2:58:22PM</p> <p>5 A That was within my geographic area of 2:58:23PM</p> <p>6 employment, which would've been the confines of</p> <p>7 Ocean Beach.</p> <p>8 Q So that the extent of your authority 2:58:31PM</p> <p>9 to issue a summons was within the borders of</p> <p>10 Ocean Beach?</p> <p>11 MR. NOVIKOFF: Objection. 2:58:42PM</p> <p>12 BY MR. GOODSTADT: 2:58:45PM</p> <p>13 Q Is that correct? 2:58:45PM</p> <p>14 A Correct. 2:58:46PM</p> <p>15 Q Have you ever pulled over an 2:58:50PM</p> <p>16 automobile outside of Ocean Beach?</p> <p>17 A No. 2:58:56PM</p> <p>18 Q Do you recall ever stopping a vehicle 2:59:09PM</p> <p>19 in Islip?</p> <p>20 A Yes. 2:59:16PM</p> <p>21 MR. GOODSTADT: Do you need to take a 2:59:22PM</p> <p>22 break?</p> <p>23 MR. NOVIKOFF: No, that's fine. 2:59:24PM</p> <p>24 BY MR. GOODSTADT: 2:59:25PM</p> <p>25 Q How did you -- when you pulled over 2:59:27PM</p>	<p>1 TYREE BACON</p> <p>2 they got out the car, and no. The lights were</p> <p>3 on, I looked in, and that was it.</p> <p>4 Q Did you have your firearm on you at 3:00:20PM</p> <p>5 the time?</p> <p>6 A I did. 3:00:24PM</p> <p>7 Q Why did you look in their car? 3:00:25PM</p> <p>8 A I wanted to see if they had a 3:00:26PM</p> <p>9 paintball gun.</p> <p>10 Q Were you pulling them over in your 3:00:27PM</p> <p>11 capacity as a police officer?</p> <p>12 A No, I wasn't. 3:00:29PM</p> <p>13 Q So you were searching in their car in 3:00:30PM</p> <p>14 the capacity as a civilian while you were</p> <p>15 wearing a uniform and carrying a weapon; is that</p> <p>16 correct?</p> <p>17 MR. NOVIKOFF: Objection to the 3:00:39PM</p> <p>18 characterization.</p> <p>19 You can answer the question. 3:00:40PM</p> <p>20 A No. I was not searching their car. 3:00:41PM</p> <p>21 They had exited the vehicle. I never went into</p> <p>22 the vehicle. The interior light was on, and I</p> <p>23 was in a position to observe. I didn't go</p> <p>24 looking under the seats or in the glove</p> <p>25 compartment or the trunk.</p>
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<p>1 TYREE BACON</p> <p>2 the vehicle in Islip, when was that?</p> <p>3 A A couple of years ago, after getting 2:59:33PM</p> <p>4 hit with a paintball.</p> <p>5 Q Do you recall what time of the day it 2:59:38PM</p> <p>6 was?</p> <p>7 A It was at night. I was on my way into 2:59:39PM</p> <p>8 work.</p> <p>9 Q Were you wearing your uniform? 2:59:42PM</p> <p>10 A I was. 2:59:44PM</p> <p>11 Q And how did you go about pulling over 2:59:44PM</p> <p>12 the vehicle?</p> <p>13 A Actually, they stopped at a 2:59:47PM</p> <p>14 stoplight -- excuse me, a stop sign, and I got</p> <p>15 out of my car and asked them what was going on,</p> <p>16 and that was it.</p> <p>17 Q Did you identify yourself as a police 2:59:55PM</p> <p>18 officer?</p> <p>19 A I may have. I was certainly in 2:59:57PM</p> <p>20 uniform.</p> <p>21 Q But did you say I'm a police officer? 3:00:00PM</p> <p>22 A No, I didn't say I'm a police officer. 3:00:02PM</p> <p>23 Q And what did you say to the person in 3:00:09PM</p> <p>24 the car or the people in the car?</p> <p>25 A You guys got a paintball gun? And 3:00:13PM</p>	<p>1 TYREE BACON</p> <p>2 Q Did you ask them to exit the vehicle? 3:00:56PM</p> <p>3 MR. NOVIKOFF: What's that? 3:00:58PM</p> <p>4 MR. GOODSTADT: Did you ask them to 3:00:59PM</p> <p>5 exit the vehicle.</p> <p>6 A I don't recall. 3:01:01PM</p> <p>7 Q You don't recall one way or the other? 3:01:01PM</p> <p>8 A I don't remember. 3:01:04PM</p> <p>9 Q So you may have asked them to exit? 3:01:05PM</p> <p>10 MR. NOVIKOFF: Objection. 3:01:06PM</p> <p>11 A I may have. 3:01:07PM</p> <p>12 Q Would that have been in your capacity 3:01:08PM</p> <p>13 as a police officer?</p> <p>14 MR. NOVIKOFF: Objection. 3:01:10PM</p> <p>15 A Yes. 3:01:11PM</p> <p>16 Q Okay. Did you report the incident to 3:01:12PM</p> <p>17 anyone in Ocean Beach?</p> <p>18 A Yes. 3:01:20PM</p> <p>19 Q How come? 3:01:20PM</p> <p>20 A Just to cover myself. 3:01:23PM</p> <p>21 Q What do you mean by that? 3:01:25PM</p> <p>22 A I did take action, I was in uniform, 3:01:26PM</p> <p>23 so I felt it was appropriate to notify</p> <p>24 supervision.</p> <p>25 Q You took police action? 3:01:32PM</p>

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<p>1 TYREE BACON</p> <p>2 MR. NOVIKOFF: Objection. 3:01:34PM</p> <p>3 A They exited the vehicle based on me 3:01:35PM</p> <p>4 being in the union, so that could be construed</p> <p>5 as taking police action, yes.</p> <p>6 Q Well, did you think you were taking 3:01:42PM</p> <p>7 police action?</p> <p>8 MR. NOVIKOFF: Objection. 3:01:45PM</p> <p>9 A It could've been construed as such, 3:01:47PM</p> <p>10 yes.</p> <p>11 Q I'm asking whether you construed it. 3:01:50PM</p> <p>12 I don't care what other people may have</p> <p>13 construed it as.</p> <p>14 A Yes, I did construe that as that. 3:01:55PM</p> <p>15 Q Did you have the authority to take 3:01:57PM</p> <p>16 police action outside of Ocean Beach?</p> <p>17 A Yes. 3:02:01PM</p> <p>18 Q On what grounds? 3:02:04PM</p> <p>19 A Well, had there been a paintball gun 3:02:05PM</p> <p>20 in the car, I would've arrested them for</p> <p>21 possession of a firearm, since they did fire a</p> <p>22 paintball. And under the penal law, that fits</p> <p>23 the bill for a loaded weapon.</p> <p>24 MR. GOODSTADT: Mark that, please. 3:02:17PM</p> <p>25 (Whereupon, Bates document 6822 was 3:02:19PM</p>	<p>1 TYREE BACON</p> <p>2 near tour change; and I notified the ongoing</p> <p>3 officer, but no report was taken.</p> <p>4 Q What do you mean you reported it to 3:03:21PM</p> <p>5 the ongoing officer?</p> <p>6 A In Suffolk County, they don't have 3:03:26PM</p> <p>7 precincts; they have relief points. The relief</p> <p>8 point was around the corner from where this</p> <p>9 happened.</p> <p>10 So after that happened, I went to the 3:03:31PM</p> <p>11 relief point, where I knew they would be</p> <p>12 changing. We relieve at the lighthouse, okay?</p> <p>13 And I spoke to the officer there, let him know</p> <p>14 what's going on, and that was it.</p> <p>15 Q You didn't submit anything in writing? 3:03:44PM</p> <p>16 A No. 3:03:46PM</p> <p>17 Q Do you know if the officer took any 3:03:48PM</p> <p>18 notes of what you told him happened?</p> <p>19 A I don't recall. 3:03:51PM</p> <p>20 Q How come you left that part out of 3:03:52PM</p> <p>21 your memo?</p> <p>22 MR. NOVIKOFF: Objection. 3:03:56PM</p> <p>23 A Didn't think it was relevant because 3:03:56PM</p> <p>24 no official report was drafted.</p> <p>25 Q Why didn't you call 911 when you got 3:04:00PM</p>
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<p>1 TYREE BACON</p> <p>2 marked as Bacon Exhibit 7 for</p> <p>3 identification, as of this date.)</p> <p>4 MR. GOODSTADT: I've placed in front 3:02:37PM</p> <p>5 of Mr. Bacon what's been marked as Bacon</p> <p>6 Exhibit 7. It's a one-page exhibit bearing</p> <p>7 Bates No. 6822. (Hanging.)</p> <p>8 BY MR. GOODSTADT: 3:02:49PM</p> <p>9 Q Is this the notification that you 3:02:49PM</p> <p>10 testified to to your supervisor?</p> <p>11 A Yes. 3:02:53PM</p> <p>12 Q Did you ever speak to Chief Hesse 3:02:53PM</p> <p>13 about this?</p> <p>14 MR. NOVIKOFF: Other than -- 3:02:58PM</p> <p>15 MR. GOODSTADT: About this incident. 3:02:59PM</p> <p>16 MR. NOVIKOFF: Other than this 3:03:01PM</p> <p>17 document?</p> <p>18 MR. GOODSTADT: Yes. 3:03:03PM</p> <p>19 BY MR.. GOODSTADT: 3:03:03PM</p> <p>20 Q Did you ever verbally speak to him 3:03:04PM</p> <p>21 about it?</p> <p>22 A I think after he received this, he 3:03:06PM</p> <p>23 asked me what happened and I informed him.</p> <p>24 Q Did you report it to Suffolk County? 3:03:11PM</p> <p>25 A I stopped by the firehouse, and it was 3:03:13PM</p>	<p>1 TYREE BACON</p> <p>2 hit by a paintball?</p> <p>3 MR. NOVIKOFF: Let him finish the 3:04:06PM</p> <p>4 question. Give me a chance to object, and</p> <p>5 you can answer that.</p> <p>6 Is the question complete, Andrew? 3:04:14PM</p> <p>7 MR. GOODSTADT: Yep. 3:04:16PM</p> <p>8 MR. NOVIKOFF: Can you read the 3:04:17PM</p> <p>9 question back?</p> <p>10 BY MR. GOODSTADT: 3:04:19PM</p> <p>11 Q Why didn't you call 911 when you got 3:04:20PM</p> <p>12 hit by a paintball?</p> <p>13 MR. NOVIKOFF: Objection to the form. 3:04:23PM</p> <p>14 I don't think he said he got hit by a</p> <p>15 paintball.</p> <p>16 BY MR. GOODSTADT: 3:04:27PM</p> <p>17 Q Your car got hit by a paintball? 3:04:28PM</p> <p>18 MR. NOVIKOFF: Objection to the form 3:04:31PM</p> <p>19 of the question.</p> <p>20 A Because I had eyes on the vehicle that 3:04:31PM</p> <p>21 I thought had done it. They turned, I followed</p> <p>22 them, they stopped at the light. I spoke to</p> <p>23 them and spoke to a police officer, which all of</p> <p>24 that was accomplished in less time than calling</p> <p>25 911 and waiting for a sector car to arrive.</p>

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<p>1 TYREE BACON</p> <p>2 Q Did you take down the plate of the 3:04:51PM</p> <p>3 vehicle?</p> <p>4 A I don't recall. 3:04:54PM</p> <p>5 Q Did you report the plate to anyone? 3:04:56PM</p> <p>6 A I'm sure if I did, I gave it to the 3:04:59PM</p> <p>7 Suffolk officer.</p> <p>8 Q Do you recall the officer's name who 3:05:07PM</p> <p>9 you spoke with?</p> <p>10 A No, I don't. 3:05:10PM</p> <p>11 Q What time was your tour that day? 3:05:14PM</p> <p>12 A Midnight. 3:05:19PM</p> <p>13 Q And what time did the incident happen? 3:05:19PM</p> <p>14 A Probably around 11:20. 3:05:25PM</p> <p>15 Q So is it your testimony that you got 3:05:26PM</p> <p>16 hit by a paintball, your car got hit by a</p> <p>17 paintball at 11:20, you pulled over this car,</p> <p>18 you exited the vehicle, you looked for a gun, a</p> <p>19 paintball gun, everyone got back in the car,</p> <p>20 then you went and reported it at the firehouse</p> <p>21 to the outgoing officer and still made it on</p> <p>22 time to your midnight tour?</p> <p>23 MR. NOVIKOFF: Objection. 3:05:50PM</p> <p>24 You can answer. 3:05:50PM</p> <p>25 A I may have been a few minutes late. I 3:05:51PM</p>	<p>1 TYREE BACON</p> <p>2 Bates No. 7410. (Handing.)</p> <p>3 BY MR. GOODSTADT: 3:07:22PM</p> <p>4 Q Mr. Bacon, have you ever seen this 3:07:21PM</p> <p>5 document?</p> <p>6 A I have. 3:07:25PM</p> <p>7 Q Which incident is this document in 3:07:26PM</p> <p>8 relation to?</p> <p>9 A None of those that were mentioned. 3:07:30PM</p> <p>10 Q Was this a separate incident in which 3:07:33PM</p> <p>11 you were arrested?</p> <p>12 A No. This wasn't an arrest. 3:07:36PM</p> <p>13 Q What was this? 3:07:38PM</p> <p>14 A This was a summons. 3:07:39PM</p> <p>15 Q What was the summons for? 3:07:41PM</p> <p>16 A Being in the park after hours. 3:07:43PM</p> <p>17 Q Do you recall when you received that 3:07:46PM</p> <p>18 summons?</p> <p>19 A Sometime in 1984. 3:07:51PM</p> <p>20 Q Do you recall why you were in the park 3:07:53PM</p> <p>21 after hours?</p> <p>22 A Yeah. 3:07:56PM</p> <p>23 Q Why were you in the park after hours? 3:07:56PM</p> <p>24 A I was getting a blow job from my 3:07:58PM</p> <p>25 girlfriend.</p>
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<p>1 TYREE BACON</p> <p>2 think the whole interaction from the time I got</p> <p>3 hit to the time I left speaking to the officer</p> <p>4 was less than 10 minutes.</p> <p>5 Q So you don't recall whether you were 3:06:02PM</p> <p>6 late or not?</p> <p>7 A No, I don't. 3:06:05PM</p> <p>8 (Whereupon, a discussion was held off 3:06:22PM</p> <p>9 the record.)</p> <p>10 BY MR.. GOODSTADT: 3:06:28PM</p> <p>11 Q Before, we went over some of your 3:06:28PM</p> <p>12 arrests and the disposition of those arrests.</p> <p>13 Do you recall doing that? 3:06:35PM</p> <p>14 MR. NOVIKOFF: Objection. 3:06:37PM</p> <p>15 A Sorry? 3:06:38PM</p> <p>16 Q Do you recall going over your arrests 3:06:39PM</p> <p>17 and the disposition of those arrests before?</p> <p>18 A Yes. 3:06:43PM</p> <p>19 MR. GOODSTADT: Let's mark that. 3:06:43PM</p> <p>20 (Whereupon, Bates document 7410 was 3:06:44PM</p> <p>21 marked as Bacon Exhibit 8 for</p> <p>22 identification, as of this date.)</p> <p>23 MR. GOODSTADT: I've placed in front 3:07:13PM</p> <p>24 of Mr. Bacon what's been marked as Bacon</p> <p>25 Exhibit 8. It's a one-page exhibit bearing</p>	<p>1 TYREE BACON</p> <p>2 Q And you got a ticket? 3:08:01PM</p> <p>3 A Yes. 3:08:02PM</p> <p>4 Q Other than for this summons, did you 3:08:02PM</p> <p>5 ever receive any other summonses other than for</p> <p>6 traffic-related summons?</p> <p>7 A Traffic summonses. No, I don't recall 3:08:11PM</p> <p>8 getting any others. Parking, traffic.</p> <p>9 MR. GOODSTADT: Mark that. 3:08:53PM</p> <p>10 (Whereupon, Bates document 7418-7423 3:08:54PM</p> <p>11 was marked as Bacon Exhibit 9 for</p> <p>12 identification, as of this date.)</p> <p>13 MR. GOODSTADT: I've placed in front 3:09:16PM</p> <p>14 of Mr. Bacon what's been marked as Bacon</p> <p>15 Exhibit 9.. It's a multiple-page exhibit</p> <p>16 bearing Bates numbers 7418 through 7423.</p> <p>17 (Handing.)</p> <p>18 BY MR. GOODSTADT: 3:09:28PM</p> <p>19 Q Mr. Bacon, I ask you to turn to 7419. 3:09:28PM</p> <p>20 A (Witness complies.) Yes. 3:09:32PM</p> <p>21 Q If you look in the arrest 3:09:37PM</p> <p>22 information --</p> <p>23 A Uh-huh. 3:09:41PM</p> <p>24 Q -- section. 3:09:42PM</p> <p>25 A Yes. 3:09:43PM</p>

<p style="text-align: right;">Page 245</p> <p>1 TYREE BACON</p> <p>2 Q You see the first one, which shows an 3:09:43PM</p> <p>3 arrest for assault with intent to cause physical</p> <p>4 injury.</p> <p>5 Do you see that? 3:09:49PM</p> <p>6 A Correct, yes. 3:09:50PM</p> <p>7 Q What incident was that? Did you 3:09:51PM</p> <p>8 testify to the incident already?</p> <p>9 A Yes. That was the 1986 incident at 3:09:54PM</p> <p>10 Woodhull Hospital.</p> <p>11 Q Then the second is reckless 3:09:58PM</p> <p>12 endangerment second.</p> <p>13 Do you see that? 3:10:00PM</p> <p>14 A Yes. That was all part of the same 3:10:03PM</p> <p>15 arrest.</p> <p>16 Q The next one is invalid use of a 3:10:04PM</p> <p>17 credit card with intent to fraud.</p> <p>18 Do you see that? 3:10:08PM</p> <p>19 A Yeah. 3:10:09PM</p> <p>20 Q And I asked you about that before, and 3:10:09PM</p> <p>21 you said it never happened. Does this refresh</p> <p>22 your recollection as to --</p> <p>23 MR. NOVIKOFF: Objection to the 3:10:14PM</p> <p>24 characterization of the testimony.</p> <p>25 You can answer. 3:10:17PM</p>	<p style="text-align: right;">Page 247</p> <p>1 TYREE BACON</p> <p>2 MR. NOVIKOFF: You mean of his or in 3:11:08PM</p> <p>3 general?</p> <p>4 MR. GOODSTADT: Just generally, and 3:11:10PM</p> <p>5 AISI printout.</p> <p>6 A Yes. 3:11:12PM</p> <p>7 Q And where does one get to get a 3:11:12PM</p> <p>8 document that's marked as Bacon 9?</p> <p>9 A Well, you get fingerprinted, and they 3:11:18PM</p> <p>10 turn around and submit them to Albany, the FBI.</p> <p>11 This is the report that comes back when somebody</p> <p>12 is being investigated for a position or if it's</p> <p>13 an arrest.</p> <p>14 Q What do you mean, or if it's an 3:11:32PM</p> <p>15 arrest?</p> <p>16 A If somebody gets arrested and they get 3:11:35PM</p> <p>17 fingerprinted. And when their prints come back</p> <p>18 from Albany, you get the same kind of an AISI</p> <p>19 printout that gets attached to the criminal</p> <p>20 court complaint.</p> <p>21 Q Have you ever ran this report on 3:11:47PM</p> <p>22 anybody else?</p> <p>23 A No, I have not. 3:11:50PM</p> <p>24 Q Have you ever reviewed this report as 3:11:51PM</p> <p>25 part of any background investigation on anyone</p>
<p style="text-align: right;">Page 246</p> <p>1 TYREE BACON</p> <p>2 A Yes. No, that never happened. There 3:10:18PM</p> <p>3 was -- I don't even know how that got there.</p> <p>4 The OGA below that, that was definitely part and</p> <p>5 parcel of the arrest.</p> <p>6 Q Of which arrest? 3:10:27PM</p> <p>7 A The 1986 on July the 8th. 3:10:28PM</p> <p>8 Q Arrest for what? 3:10:33PM</p> <p>9 A The assault, reckless endangerment, 3:10:34PM</p> <p>10 OGA, the parking incident at Woodhull Hospital.</p> <p>11 Q So three of these deal with the 3:10:43PM</p> <p>12 Woodhull Hospital?</p> <p>13 A Yes. 3:10:45PM</p> <p>14 Q And then the fourth one says invalid 3:10:45PM</p> <p>15 use of a credit card with intent to fraud. You</p> <p>16 don't know what that is referring to?</p> <p>17 A That has nothing to do with me, never 3:10:50PM</p> <p>18 did. Nope.</p> <p>19 Q Do you know what this document is? 3:10:53PM</p> <p>20 A I'm guessing this is an AISI printout. 3:10:55PM</p> <p>21 Q What do you mean by that? What AISI? 3:11:00PM</p> <p>22 A When you get your fingerprints run. 3:11:01PM</p> <p>23 Q Have you ever seen one of these in the 3:11:04PM</p> <p>24 past?</p> <p>25 A Yes. 3:11:07PM</p>	<p style="text-align: right;">Page 248</p> <p>1 TYREE BACON</p> <p>2 else?</p> <p>3 A No. 3:11:55PM</p> <p>4 Q When have you seen these in the past? 3:11:57PM</p> <p>5 A Because I work as a court officer. 3:11:59PM</p> <p>6 It's attached to every single court case that</p> <p>7 comes into criminal court.</p> <p>8 Q So that's where you've seen them? 3:12:05PM</p> <p>9 A Yes. 3:12:07PM</p> <p>10 Q Are you currently married? 3:12:20PM</p> <p>11 A Yes. 3:12:21PM</p> <p>12 Q How long have you been married for to 3:12:21PM</p> <p>13 your current wife?</p> <p>14 A Since 2005. 3:12:25PM</p> <p>15 Q And what's your current wife's name? 3:12:27PM</p> <p>16 A Caroline. 3:12:30PM</p> <p>17 Q Do you have any children with 3:12:34PM</p> <p>18 Caroline?</p> <p>19 A I do. 3:12:36PM</p> <p>20 Q Just tell me the ages of your 3:12:36PM</p> <p>21 children.</p> <p>22 A Two. 3:12:39PM</p> <p>23 Q Is it a boy or girl? 3:12:41PM</p> <p>24 A Girl. 3:12:42PM</p> <p>25 Q And where is your wife employed? 3:12:49PM</p>

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1 **TYREE BACON**

2 A City of New York Police Department. 3:12:51PM

3 Q She's a police officer in New York 3:12:54PM

4 City?

5 A Yes.. 3:12:57PM

6 Q What precinct? 3:12:57PM

7 A Sixth precinct. 3:12:58PM

8 Q Have you been married prior to your 3:13:01PM

9 marriage to Caroline?

10 A Yes. 3:13:05PM

11 Q I believe you testified to a divorce 3:13:05PM

12 before, correct?

13 A Yes. 3:13:08PM

14 Q How many times have you been married 3:13:09PM

15 prior to Caroline?

16 A Twice. 3:13:11PM

17 Q And when was the first time you were 3:13:12PM

18 married?

19 A That was in 1996. 3:13:14PM

20 Q And that ended -- and who was your 3:13:15PM

21 wife at the time?

22 A That was Jennifer Monroe. 3:13:18PM

23 Q And did she sue you for divorce? 3:13:21PM

24 A Yes. We already went through that. 3:13:25PM

25 Q That was the one you testified to 3:13:28PM

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1 **TYREE BACON**

2 before?

3 A Correct. 3:13:30PM

4 Q The second wife, what was her name? 3:13:33PM

5 A Susan Shields. 3:13:35PM

6 Q And how did that marriage end? 3:13:37PM

7 A In divorce. 3:13:39PM

8 Q Did she sue you for divorce? 3:13:40PM

9 A Yes. 3:13:42PM

10 Q Was there any proceeding relating to 3:13:42PM

11 that divorce?

12 A No. 3:13:45PM

13 Q Was that an amicable divorce? 3:13:46PM

14 A Yes. 3:13:48PM

15 Q Did you have any children with 3:13:49PM

16 Jennifer?

17 A No. 3:13:51PM

18 Q Did you have any children with Susan? 3:13:51PM

19 A No. 3:13:53PM

20 Q And you served in the military, 3:13:58PM

21 correct?

22 A Yes. 3:14:01PM

23 Q And you recently did a tour in Iraq? 3:14:01PM

24 A Yes. 3:14:04PM

25 Q What were the dates of that tour? 3:14:04PM

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1 **TYREE BACON**

2 A From January of '08 through -- I got 3:14:06PM

3 back in May, but I was still on orders through

4 June of '08.

5 Q So January '08 through May or June of 3:14:15PM

6 '08?

7 A May, June of '08, correct. 3:14:19PM

8 Q Have you gone to Iraq before that? 3:14:24PM

9 A No. 3:14:26PM

10 Q Had you had any active tour of duty 3:14:26PM

11 prior to that?

12 A Yes. 3:14:30PM

13 Q Okay. Where were your other active 3:14:30PM

14 tours of duty?

15 A I got activated, and I was stationed 3:14:33PM

16 at McGuire Air Force base for a year prior after

17 9-11. I did a couple of weeks in Kuwait.

18 Q Let's just start with McGuire Air 3:14:44PM

19 Force Base. What were the dates of McGuire Air

20 Force Base?

21 A October of '01 through October of '02. 3:14:50PM

22 Q Okay. And then you went to Kuwait? 3:14:53PM

23 A Yes. 3:14:57PM

24 Q How long were you in Kuwait for? 3:14:58PM

25 A Less than a month. 3:15:00PM

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1 **TYREE BACON**

2 Q And that was in October of '02, you 3:15:01PM

3 were --

4 A No, no. Kuwait was 2000 something. 3:15:04PM

5 It was the in the summer of 2000.

6 Q So it was prior to McGuire Air Force 3:15:09PM

7 Base?

8 A Yes. 3:15:13PM

9 Q So it was prior to September 11th? 3:15:13PM

10 A Yes. 3:15:15PM

11 Q And were you stationed anywhere other 3:15:17PM

12 than for Iraq, McGuire Air Force base or Kuwait?

13 A We did our two-week annual tour, and 3:15:24PM

14 we were at various bases. I've been to the

15 Rhein-Main Air Force Base in Germany. I've in

16 Barksdale Air Force base in Louisiana.

17 Q When were those tours? 3:15:39PM

18 A I have no -- I don't even remember. 3:15:40PM

19 Q What year? 3:15:42PM

20 A Between 1987 and 2000. 3:15:44PM

21 Q Okay. Were you stationed anywhere 3:15:49PM

22 else?

23 A A bunch of different places for two 3:15:56PM

24 weeks of training here and there. I don't

25 recall them all.

<p style="text-align: right;">Page 253</p> <p>1 TYREE BACON</p> <p>2 Q Any -- other than for Iraq, were there 3:16:01PM</p> <p>3 any tours that you did after '02?</p> <p>4 A No -- annual training. And where were 3:16:09PM</p> <p>5 we for that? Kansas. Wichita Falls, Kansas, a</p> <p>6 couple of other places. I just don't recall.</p> <p>7 Q Where in Iraq were you? 3:16:25PM</p> <p>8 A Camp Cooke, up north. 3:16:27PM</p> <p>9 Q And what was your position there? 3:16:29PM</p> <p>10 A Assistant fire chief. 3:16:31PM</p> <p>11 Q What arm of the military were you in? 3:16:38PM</p> <p>12 A Air Force reserves. 3:16:41PM</p> <p>13 Q Did you have access to the Internet 3:16:47PM</p> <p>14 when you were over there?</p> <p>15 A Yes. 3:16:51PM</p> <p>16 Q Did you ever E-mail from over there? 3:16:54PM</p> <p>17 A Yes.. 3:16:56PM</p> <p>18 Q Did you ever E-mail anyone at Ocean 3:16:56PM</p> <p>19 Beach from over there, anyone who worked at</p> <p>20 Ocean Beach, employed by Ocean Beach?</p> <p>21 A No, I didn't. 3:17:03PM</p> <p>22 Q Did you ever E-mail any former 3:17:04PM</p> <p>23 employees of Ocean Beach from over there?</p> <p>24 A No. 3:17:08PM</p> <p>25 Q Did you ever read -- are you aware of 3:17:09PM</p>	<p style="text-align: right;">Page 255</p> <p>1 TYREE BACON</p> <p>2 MR. NOVIKOFF: Objection. 3:18:00PM</p> <p>3 A I don't recall. There were more sites 3:18:01PM</p> <p>4 that you couldn't access than you could.</p> <p>5 Q What's the website of the blog that 3:18:06PM</p> <p>6 you're testifying about?</p> <p>7 A It was LI politics. 3:18:11PM</p> <p>8 MR. NOVIKOFF: Are you sure or are you 3:18:14PM</p> <p>9 guessing?</p> <p>10 THE WITNESS: No, I'm not certain. 3:18:16PM</p> <p>11 MR. NOVIKOFF: Okay. 3:18:18PM</p> <p>12 MR. GOODSTADT: Why don't we take a 3:18:19PM</p> <p>13 couple-minute break.</p> <p>14 THE VIDEOGRAPHER: The time is 3:19. 3:18:31PM</p> <p>15 We're off the record.</p> <p>16 (Whereupon, a discussion was held off 3:18:36PM</p> <p>17 the record.)</p> <p>18 THE VIDEOGRAPHER: The time is 3:22. 3:21:13PM</p> <p>19 We are back on the record.</p> <p>20 MR. GOODSTADT: It's now 3:22. In 3:21:17PM</p> <p>21 light of scheduling issues that have come</p> <p>22 up, it's become apparent that Mr. Bacon is</p> <p>23 not going to have his deposition completed</p> <p>24 today. All parties have agreed to resume</p> <p>25 and the witness has agreed to resume the</p>
<p style="text-align: right;">Page 254</p> <p>1 TYREE BACON</p> <p>2 a blog with respect to the Ocean Beach Police</p> <p>3 Department?</p> <p>4 A Yes. 3:17:14PM</p> <p>5 Q Did you read the blog at all from over 3:17:17PM</p> <p>6 there?</p> <p>7 A No, I did not. 3:17:19PM</p> <p>8 Q You never logged on to the blog? 3:17:20PM</p> <p>9 A No. When we were over there, there 3:17:22PM</p> <p>10 was very, very restricted E-mail access. You</p> <p>11 had a government E-mail account. And I could</p> <p>12 send E-mail home to my wife, I could access my</p> <p>13 online bill pay, I could send E-mails to another</p> <p>14 DOD computer, but that was it. It was very,</p> <p>15 very limited, very restricted.</p> <p>16 Q Other than that limited or restricted 3:17:43PM</p> <p>17 E-mail access, did you have limited Internet</p> <p>18 access as well?</p> <p>19 A Yes. 3:17:46PM</p> <p>20 Q Were part of the limitations not 3:17:51PM</p> <p>21 allowing you to log on to the blog? Were you</p> <p>22 restricted from logging on to the blog?</p> <p>23 A There were websites you couldn't 3:17:55PM</p> <p>24 access at all.</p> <p>25 Q Was that one of the websites? 3:17:59PM</p>	<p style="text-align: right;">Page 256</p> <p>1 TYREE BACON</p> <p>2 deposition at a later time to be agreed upon</p> <p>3 by counsel and the witness based on their</p> <p>4 schedules.</p> <p>5 MR. NOVIKOFF: But you're going to 3:21:38PM</p> <p>6 continue.</p> <p>7 MR. GOODSTADT: I'm going to continue 3:21:40PM</p> <p>8 mine and then you have your time.</p> <p>9 MR. NOVIKOFF: Right. Right. As long 3:21:42PM</p> <p>10 as everyone is able to continue.. Fine.</p> <p>11 Great.</p> <p>12 THE WITNESS: I just have one 3:21:47PM</p> <p>13 question? If you could get another</p> <p>14 subpoena, whatever, to him so I could bring</p> <p>15 it to work. They just need something for me</p> <p>16 to report on whatever days you guys --</p> <p>17 MR. GOODSTADT: We'll send the same 3:21:59PM</p> <p>18 thing we did the other day.</p> <p>19 THE WITNESS: Yeah, that's perfect, 3:22:02PM</p> <p>20 whatever the dates. They just need</p> <p>21 something.</p> <p>22 MR. NOVIKOFF: Got it. 3:22:03PM</p> <p>23 MR. GOODSTADT: We'll send the exact 3:22:04PM</p> <p>24 same thing we did today.</p> <p>25 THE WITNESS: Thanks. 3:22:05PM</p>

Page 257		Page 259	
1	TYREE BACON	1	PROCEEDINGS
2	MR. CONNOLLY: So agreed. 3:22:06PM	2	INDEX 3:22:11PM
3	THE VIDEOGRAPHER: The time is 3:23. 3:22:07PM	3	ATTORNEY PAGE 3:22:11PM
4	We are going off the record.	4	By Mr. Goodstadt 6 3:22:11PM
5	(Time noted 3:23 p.m.) 3:22:11PM	5	3:22:11PM
6	3:22:11PM	6	3:22:11PM
7	TYREE BACON 3:22:11PM	7	3:22:11PM
8	3:22:11PM	8	3:22:11PM
9	Subscribed and sworn to before me 3:22:11PM	9	3:22:11PM
10	this day of , 2009 3:22:11PM	10	INDEX OF BACON EXHIBITS 3:22:11PM
11	3:22:11PM	11	I.D. DESCRIPTION PAGE 3:22:11PM
12	3:22:11PM	12	Exhibit 1 Bates document 7360-7381 170 3:22:11PM
13		13	Exhibit 2 Bates document 5335-37 211 3:22:11PM
14		14	Exhibit 3 Bates document 1-25 214 3:22:11PM
15		15	Exhibit 4 Bates document 5600 219 3:22:11PM
16		16	Exhibit 5 Police Officer Part-Time/Seasonal 229 3:22:11PM
17		17	Exhibit 6 Police Candidate Application 231 3:22:11PM
18		18	Packet 3:22:11PM
19		19	Exhibit 7 Bates document 6822 237 3:22:11PM
20		20	Exhibit 8 Bates document 7410 242 3:22:11PM
21		21	Exhibit 9 Bates document 7418-7423 244 3:22:11PM
22		22	3:22:11PM
23		23	
24		24	
25		25	
Page 258		Page 260	
1	PROCEEDINGS	1	ERRATA SHEET
2	CERTIFICATE 3:22:11PM	2	NAME OF CASE: CARTER V. OCEAN BEACH 3:22:11PM
3	3:22:11PM	3	DATE OF DEPOSITION: February 12, 2009 3:22:11PM
4	I, JUDI JOHNSON, RPR, CRR, CLR, a Notary Public 3:22:11PM	4	NAME OF WITNESS: TYREE BACON 3:22:11PM
5	and for the State of New York, do hereby certify:	5	3:22:11PM
6	THAT the witness whose testimony is hereinbefore 3:22:11PM	6	Reason codes: 3:22:11PM
7	set forth, was duly sworn by me; and	7	1. To clarify the record. 3:22:11PM
8	THAT the within transcript is a true record 3:22:11PM	8	2. To conform to the facts 3:22:11PM
9	of the testimony given by said witness. I further 3:22:11PM	9	3. To correct the transcription 3:22:11PM
10	certify that I am not related, either by blood or	10	errors. 3:22:11PM
11	marriage, to any of the parties to this action; and	11	Page _____ Line _____ Reason _____ 3:22:11PM
12	THAT I am in no way interested in the outcome 3:22:11PM	12	From _____ to _____ 3:22:11PM
13	this matter.	13	Page _____ Line _____ Reason _____ 3:22:11PM
14	IN WITNESS WHEREOF, I have hereunto set 3:22:11PM	14	From _____ to _____ 3:22:11PM
15	my hand this 25th day of February, 2009. 3:22:11PM	15	Page _____ Line _____ Reason _____ 3:22:11PM
16	3:22:11PM	16	From _____ to _____ 3:22:11PM
17	3:22:11PM	17	Page _____ Line _____ Reason _____ 3:22:11PM
18	JUDI JOHNSON, RPR, CRR, CLR 3:22:11PM	18	From _____ to _____ 3:22:11PM
19		19	Page _____ Line _____ Reason _____ 3:22:11PM
20		20	From _____ to _____ 3:22:11PM
21		21	Page _____ Line _____ Reason _____ 3:22:11PM
22		22	From _____ to _____ 3:22:11PM
23		23	3:22:11PM
24		24	3:22:11PM
25		25	TYREE BACON 3:22:11PM

<p style="text-align: right;">Page 261</p> <p style="text-align: center;">UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NEW YORK</p> <p style="text-align: center;">-----X</p> <p>EDWARD CARTER, FRANK FIORILLO, KEVIN LAMM, JOSEPH NOFI, and THOMAS SNYDER, Plaintiffs,</p> <p style="text-align: center;">vs. Case No. 07-1215</p> <p>INCORPORATED VILLAGE OF OCEAN BEACH; MAYOR JOSEPH C. LOEFFLER, JR., individually, and in his official capacity; former mayor NATALIE K. ROGERS, individually and in her official capacity, OCEAN BEACH POLICE DEPARTMENT; ACTING DEPUTY POLICE CHIEF GEORGE B. HESSE, individually and in his official capacity; SUFFOLK COUNTY; SUFFOLK COUNTY POLICE DEPARTMENT; SUFFOLK COUNTY DEPARTMENT OF CIVIL SERVICE; and ALISON SANCHEZ, individually and in her official capacity,</p> <p style="text-align: center;">Defendants.</p> <p style="text-align: center;">-----X</p> <p style="text-align: center;">CONTINUED VIDEOTAPED DEPOSITION OF TYREE BACON New York, New York April 15, 2009</p> <p>Reported by: Bonnie Pruszyński, RMR JOB NO. 22326</p>	<p style="text-align: right;">Page 263</p> <p>1</p> <p>2 A P P E A R A N C E S:</p> <p>3 THOMPSON WIGDOR & GILLY, LLP</p> <p>4 Attorneys for Plaintiffs</p> <p>5 85 Fifth Avenue</p> <p>6 New York, New York 10003</p> <p>7 BY: ANDREW S. GOODSTADT, ESQ.</p> <p>8</p> <p>9 RIVKIN RADLER, LLP</p> <p>10 Attorneys for Defendants Incorporated Village of</p> <p>11 Ocean Beach, Mayor Joseph C. Loeffler, Jr., former</p> <p>12 mayor Natalie K. Rogers:</p> <p>13 926 RexCorp Plaza</p> <p>14 Uniondale, New York 11556</p> <p>15 BY: KENNETH A. NOVIKOFF, ESQ.</p> <p>16</p> <p>17 MARKS, O'NEILL, O'BRIEN & COURTNEY, P.C.</p> <p>18 Attorneys for Acting Deputy Police Chief George B.</p> <p>19 Hesse:</p> <p>20 530 Saw Mill River Road</p> <p>21 Elmsford, New York 10523</p> <p>22 BY: KEVIN W. CONNOLLY, ESQ.</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 262</p> <p>1</p> <p>2 April 15, 2009</p> <p>3 10:15 a.m.</p> <p>4</p> <p>5</p> <p>6 Continued Videotaped Deposition OF</p> <p>7 TYREE BACON, held at THOMPSON, WIGDOR &</p> <p>8 GILLY, LLP, 85 Fifth Avenue, New York, New</p> <p>9 York, before Bonnie Pruszyński, Registered</p> <p>10 Professional Reporter, Registered Merit</p> <p>11 Reporter, Certified LiveNote Reporter, and a</p> <p>12 Notary Public of the State of New York.</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 264</p> <p>1</p> <p>2 A P P E A R A N C E S (Continued)</p> <p>3 SUFFOLK COUNTY DEPARTMENT OF LAW</p> <p>4 Attorneys for Suffolk County Defendants</p> <p>5 H. Lee Dennison Building, 6th Floor</p> <p>6 100 Veterans Memorial Highway</p> <p>7 Hauppauge, New York 11788</p> <p>8 (Not present)</p> <p>9</p> <p>10 ALSO PRESENT: Carlos Lopez, Legal Video</p> <p>11 Specialist</p> <p>12</p> <p>13 Thomas Snyder</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

Page 265	Page 267
<p>1 T. Bacon</p> <p>2 THE VIDEOGRAPHER: This the start of 10:07</p> <p>3 tape labeled number one of the videotape 10:07</p> <p>4 deposition of Tyree Bacon in the matter 10:07</p> <p>5 Carter Fiorillo versus Incorporated Village 10:07</p> <p>6 of Ocean Beach. 10:07</p> <p>7 This deposition is being held at 85 10:07</p> <p>8 Fifth Avenue, New York, New York, on April 10:07</p> <p>9 5, 2009, at approximately 10:07 a.m. 10:07</p> <p>10 My name is Carlo Lopez from TSG 10:07</p> <p>11 Reporting Inc. and I am the legal video 10:07</p> <p>12 specialist. 10:07</p> <p>13 The court reporter is Bonnie 10:07</p> <p>14 Pruszyński, in association with TSG 10:07</p> <p>15 Reporting. 10:07</p> <p>16 Will counsel please introduce 10:07</p> <p>17 yourself for the record? 10:07</p> <p>18 MR. GOODSTADT: Andrew Goodstadt, 10:07</p> <p>19 Thompson, Wigdor and Gilly on behalf of the 10:07</p> <p>20 plaintiffs. 10:07</p> <p>21 MR. NOVIKOFF: Ken Novikoff on behalf 10:07</p> <p>22 of the Village defendants. 10:07</p> <p>23 MR. CONNOLLY: Kevin W. Connolly of 10:07</p> <p>24 Marks, O'Neill, O'Brien & Courtney on behalf 10:08</p> <p>25 of defendant, George Hesse. 10:08</p>	<p>1 T. Bacon</p> <p>2 MR. GOODSTADT: Same stips. 10:08</p> <p>3 MR. NOVIKOFF: And you will be giving 10:08</p> <p>4 me a copy in terms for him to review it? 10:08</p> <p>5 MR. GOODSTADT: Same stips about 10:08</p> <p>6 terminating versus let go -- 10:08</p> <p>7 MR. NOVIKOFF: You got it. 10:08</p> <p>8 MR. GOODSTADT: Everything. 10:08</p> <p>9 MR. NOVIKOFF: Good. 10:08</p> <p>10 BY MR. GOODSTADT: 10:08</p> <p>11 Q And I just want to remind you. I 10:08</p> <p>12 reminded you last time, I just want to remind you 10:08</p> <p>13 that you are under oath today, and that you have 10:08</p> <p>14 sworn to tell the truth, and failure to do so 10:08</p> <p>15 could be punishable as a crime? 10:09</p> <p>16 MR. NOVIKOFF: Objection. 10:09</p> <p>17 A Understood. 10:09</p> <p>18 Q What have you done, if anything, 10:09</p> <p>19 between the deposition in February and today to 10:09</p> <p>20 prepare for today? 10:09</p> <p>21 A Absolutely nothing. 10:09</p> <p>22 Q You haven't reviewed any documents? 10:09</p> <p>23 A I have not. 10:09</p> <p>24 Q You haven't had any meetings with 10:09</p> <p>25 anybody? 10:09</p>
Page 266	Page 268
<p>1 T. Bacon</p> <p>2 THE VIDEOGRAPHER: Will the court 10:08</p> <p>3 reporter please swear in the witness? 10:08</p> <p>4 (Witness sworn.) 10:08</p> <p>5 TYREE BACON, 10:08</p> <p>6 called as a witness, having been first 10:08</p> <p>7 duly sworn, was examined and testified 10:08</p> <p>8 as follows: 10:08</p> <p>9 EXAMINATION (Continued): 10:08</p> <p>10 Q Good morning. 10:08</p> <p>11 A Good morning. How are you, 10:08</p> <p>12 Counselor? 10:08</p> <p>13 Q Thank you for coming back. I 10:08</p> <p>14 appreciate it. 10:08</p> <p>15 During the last deposition that you 10:08</p> <p>16 were here for in February, we went over a series 10:08</p> <p>17 of ground rules. 10:08</p> <p>18 Do you remember that? 10:08</p> <p>19 A I do. 10:08</p> <p>20 Q And I just want to be sure that the 10:08</p> <p>21 same ground rules will be in effect today. Is 10:08</p> <p>22 that okay? 10:08</p> <p>23 A Absolutely. 10:08</p> <p>24 MR. NOVIKOFF: And also the same 10:08</p> <p>25 stips? 10:08</p>	<p>1 T. Bacon</p> <p>2 A Nope. 10:09</p> <p>3 Q Okay. And who did you speak with 10:09</p> <p>4 between the last time you were here and today 10:09</p> <p>5 about your deposition, if anyone? 10:09</p> <p>6 A Mike Welch. 10:09</p> <p>7 Q Anyone else? 10:09</p> <p>8 A My lieutenant and captain at work, 10:09</p> <p>9 when I brought in the subpoena yesterday. 10:09</p> <p>10 Q Anyone else? 10:09</p> <p>11 A No. 10:09</p> <p>12 Q Did you speak with anybody who is 10:09</p> <p>13 employed by the Village of Ocean Beach about your 10:09</p> <p>14 deposition from last time? 10:09</p> <p>15 A No. 10:09</p> <p>16 Q You didn't discuss it at all with 10:09</p> <p>17 George Hesse? 10:09</p> <p>18 A No. I did call in this morning to be 10:09</p> <p>19 put in the blotter, so I am getting paid. Other 10:09</p> <p>20 than that, you know, called in, said, "Sign me in 10:10</p> <p>21 the blotter. I am coming in for my deposition." 10:10</p> <p>22 And I will call them back upon completion so they 10:10</p> <p>23 sign me out. Other than that, nobody. 10:10</p> <p>24 Q Did you speak with George Hesse at 10:10</p> <p>25 all between February, when you were here last 10:10</p>

2 (Pages 265 to 268)

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Page 269

1 **T. Bacon**

2 **time, and the call this morning? 10:10**

3 A I have. 10:10

4 **Q Anything at all to do with this case? 10:10**

5 A Nothing to do with this case 10:10

6 whatsoever. 10:10

7 **Q And what -- have you worked any tours 10:10**

8 **between, at Ocean Beach, between your February 10:10**

9 **deposition and today? 10:10**

10 A I have not. 10:10

11 **Q So, between your deposition in 10:10**

12 **February and today, you haven't been paid at all 10:10**

13 **by Ocean Beach? 10:10**

14 A I have been paid. I had done a 10:10

15 training, which was offsite, and I had also gotten 10:10

16 paid for the deposition and the deposition prep. 10:10

17 **Q Okay. When you say "training," what 10:10**

18 **type of training? 10:10**

19 A I was out at Suffolk County Police 10:10

20 Academy doing EVOC training, Emergency Vehicle 10:10

21 Operator's Course. 10:11

22 **Q Other than that training, and being 10:11**

23 **paid for your time spent preparing for your 10:11**

24 **deposition and your time spent at this deposition, 10:11**

25 **were you paid at all by Ocean Beach between the 10:11**

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1 **T. Bacon**

2 **February deposition and today? 10:11**

3 A No. There were no tours worked at 10:11

4 Ocean Beach between February and today. 10:11

5 **Q By you, you mean -- 10:11**

6 A By me in the Village, right. 10:11

7 **Q Have you reviewed a copy of the 10:11**

8 **complaint in this matter between the last 10:11**

9 **deposition, where you said you hadn't reviewed it, 10:11**

10 **and today? 10:11**

11 A No. 10:11

12 MR. NOVIKOFF: Objection to the form. 10:11

13 You can answer. 10:11

14 A No, I have not. 10:11

15 **Q Is there any reason that you can 10:11**

16 **think of that would prevent from testifying fully 10:11**

17 **and truthfully today? 10:11**

18 A None whatsoever. 10:11

19 **Q The last time you testified a bit 10:11**

20 **about some shifts that you had worked with Ed 10:11**

21 **Carter and Tom Snyder before you took your leave 10:11**

22 **of absence. 10:11**

23 **Do you recall that? 10:12**

24 MR. NOVIKOFF: Objection. 10:12

25 Andrew, the only reason I'm 10:12

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1 **T. Bacon**

2 objecting, since it's been almost -- close 10:12

3 to two months since the last deposition, if 10:12

4 you start prefacing the questions with 10:12

5 testifying about what you testified to, what 10:12

6 you were asked two months ago, I'm going to 10:12

7 have to object. It's not a memory test as 10:12

8 to what he may have testified to or nor not 10:12

9 testified to; that would be my one 10:12

10 objection. 10:12

11 BY MR. GOODSTADT: 10:12

12 **Q I did ask him if he recalls that. 10:12**

13 A I recall testifying to that, yes. I 10:12

14 don't recall the sum and substance of the 10:12

15 testimony. 10:12

16 **Q Okay. So, other than for a few 10:12**

17 **shifts that you worked with Carter and Snyder 10:12**

18 **before you took your leave, had you worked with 10:12**

19 **any other plaintiffs before taking your leave? 10:12**

20 MR. NOVIKOFF: Objection. You can 10:12

21 answer. 10:12

22 A Taking my leave for what? 10:12

23 **Q Well, wasn't there a break in service 10:12**

24 **that you had at the Beach? 10:12**

25 MR. NOVIKOFF: Objection. Asked and 10:12

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1 **T. Bacon**

2 answered. 10:12

3 A I was away on military leave. 10:12

4 **Q I am talking about you had a -- I 10:12**

5 **believe you testified last time that there was a 10:12**

6 **break in service at Ocean Beach between '93 and 10:12**

7 **'99. 10:13**

8 **Do you recall that? 10:13**

9 MR. NOVIKOFF: Objection. Objection 10:13

10 to what he may have testified earlier. 10:13

11 Asked and answered. 10:13

12 **Q Did you take -- was there a break in 10:13**

13 **service between '93 and '99 at the Beach? 10:13**

14 A Yes. 10:13

15 **Q And what I was getting at was last 10:13**

16 **time I believe you testified that before that 10:13**

17 **break in service, the years that you worked at 10:13**

18 **Ocean Beach before that break, you had worked some 10:13**

19 **shifts with Snyder and Carter? 10:13**

20 A Correct. 10:13

21 **Q Now, my question is: Other than for 10:13**

22 **those certain shifts that you worked with Snyder 10:13**

23 **and Carter before taking that break in service, 10:13**

24 **have you worked with any of the other plaintiffs? 10:13**

25 A No, I don't recall. 10:13

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1 T. Bacon

2 **Q Had you known any of the other 10:13**

3 **plaintiffs -- 10:13**

4 A No. 10:13

5 **Q -- prior to that? 10:13**

6 A No. 10:13

7 **Q Then when you came back in '99, had 10:13**

8 **you known any of the other three plaintiffs prior 10:13**

9 **to coming back in '99? 10:13**

10 A No. 10:13

11 **Q How did you meet Frank Fiorillo? 10:13**

12 A Working with him. 10:13

13 **Q Did you work with him a lot? 10:13**

14 A A fair amount of times, not a -- it 10:14

15 wasn't a regular -- probably at least half the 10:14

16 number of times, half the shifts I worked he was 10:14

17 on the same shift. 10:14

18 **Q And that was the four to 12 shift? 10:14**

19 A No, I -- when I first came back, I 10:14

20 was worked eight at night to four in the morning. 10:14

21 I believe Frank worked midnights. He may have 10:14

22 even worked eight at night to eight in the 10:14

23 morning. I don't recall for certain. 10:14

24 **Q When you say about half your shifts 10:14**

25 **were with Frank, what years were you referring to 10:14**

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1 T. Bacon

2 **at that point? 10:14**

3 A Sometime after '99. I don't recall 10:14

4 when he got out of the academy. I don't recall if 10:14

5 he was there the first year I was back. 10:14

6 **Q Was it half the time from when he got 10:14**

7 **out of the academy until the time that he was no 10:14**

8 **longer employed there? 10:14**

9 A Yes. 10:14

10 **Q Approximately how many shifts a month 10:14**

11 **would be half the time that you would work with 10:14**

12 **Fiorillo? 10:15**

13 A I usually work one shift a month, 10:15

14 maybe two shifts. So, I would say two shifts a 10:15

15 month with him. 10:15

16 **Q And when you say one or two shifts a 10:15**

17 **month, is that during the even season or off 10:15**

18 **season? 10:15**

19 A During the season. 10:15

20 **Q Did you ever work with him off 10:15**

21 **season? 10:15**

22 A No. 10:15

23 **Q About how many tours did you work per 10:15**

24 **year in the off season? 10:15**

25 A A half dozen. 10:15

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1 T. Bacon

2 **Q Half dozen total? 10:15**

3 A Yes. 10:15

4 **Q And how did you meet Joe Nofi? 10:15**

5 A Working in Ocean Beach. 10:15

6 **Q Did you work any tours with Nofi? 10:15**

7 A He worked four to 12's for a little 10:15

8 while. Our shifts may have overlapped. I never 10:15

9 really recall working with him. 10:15

10 **Q You don't recall being partnered up 10:15**

11 **with him? 10:16**

12 A Maybe once or twice in the very 10:16

13 beginning. 10:16

14 MR. NOVIKOFF: I just want, when you 10:16

15 say "work with," are you saying partnered up 10:16

16 with or just being in the Village at the 10:16

17 same time as police officers on duty? 10:16

18 MR. GOODSTADT: That's what I meant. 10:16

19 But then -- 10:16

20 MR. NOVIKOFF: Okay. 10:16

21 MR. GOODSTADT: -- the latter is what 10:16

22 I asked for, then he said it would overlap, 10:16

23 then I asked if he was ever partnered. 10:16

24 MR. NOVIKOFF: All right. 10:16

25 A He worked some of the same tours. 10:16

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1 T. Bacon

2 There were a couple of tours that I was partnered 10:16

3 up with him for field training purposes and stuff 10:16

4 like that, maybe one or two. 10:16

5 **Q What do you mean by "for field 10:16**

6 **training purposes"? 10:16**

7 A He was a new officer, and I had more 10:16

8 experience, so they didn't want him out there by 10:16

9 himself. 10:16

10 **Q So, did you train Nofi? 10:16**

11 A Not really. I mean, he went to the 10:16

12 academy. I was trying to teach him how to write 10:16

13 summonses, how to write field reports, enter stuff 10:16

14 into the computer. 10:16

15 **Q Did anyone else help teach him that 10:16**

16 **other than for you? 10:16**

17 A Probably just about everybody at work 10:16

18 spent time with him. 10:16

19 **Q And when did you meet Kevin Lamm? 10:17**

20 A Upon my return in '99. 10:17

21 **Q Was he already employed? 10:17**

22 A I believe so. 10:17

23 **Q Did you work any shifts with Lamm? 10:17**

24 A Yes. 10:17

25 **Q Approximately how many a year would 10:17**

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<p>1 T. Bacon</p> <p>2 you work with Lamm? 10:17</p> <p>3 A I don't know, ten, 12. 10:17</p> <p>4 Q Did he have the same tour as you or 10:17</p> <p>5 did the staggered tours overlap? 10:17</p> <p>6 A Sometimes they overlapped; sometimes 10:17</p> <p>7 they were the same tours. 10:17</p> <p>8 Q Were you ever partnered with Kevin 10:17</p> <p>9 Lamm? 10:17</p> <p>10 A No. 10:17</p> <p>11 Q Did you have any role in hiring 10:17</p> <p>12 Fiorillo? 10:17</p> <p>13 A No. 10:17</p> <p>14 Q Did you have any role in hiring Nofi? 10:17</p> <p>15 A No. 10:18</p> <p>16 Q Do you know who hired Fiorillo? 10:18</p> <p>17 A I believe back then it was all Eddie 10:18</p> <p>18 Paradiso hired everybody. 10:18</p> <p>19 Q Do you know who hired Nofi? 10:18</p> <p>20 A Eddie Paradiso. 10:18</p> <p>21 Q Do you know whether George Hesse had 10:18</p> <p>22 authority as the sergeant to hire? 10:18</p> <p>23 MR. NOVIKOFF: Objection. 10:18</p> <p>24 A I don't know if he had -- 10:18</p> <p>25 MR. NOVIKOFF: The question is yes, 10:18</p>	<p>1 T. Bacon</p> <p>2 questions, but I think the foundation needs 10:19</p> <p>3 to be laid, first. 10:19</p> <p>4 MR. GOODSTADT: Let me lay the 10:19</p> <p>5 foundation. 10:19</p> <p>6 Q Were you there the night of the 10:19</p> <p>7 Halloween incident? 10:19</p> <p>8 A No, I was not. 10:19</p> <p>9 Q So, you didn't witness anything 10:19</p> <p>10 happening at the Halloween incident? 10:19</p> <p>11 A I did not. 10:19</p> <p>12 Q I believe you testified, though, that 10:19</p> <p>13 you are were somewhat familiar with what happened 10:19</p> <p>14 there; is that correct? 10:19</p> <p>15 MR. NOVIKOFF: Objection. 10:19</p> <p>16 A Yes. 10:19</p> <p>17 Q And what is the basis of your 10:19</p> <p>18 familiarity? How did you learn about what 10:19</p> <p>19 happened? 10:19</p> <p>20 A By knowing Jeanne and Bud Jaeger. 10:19</p> <p>21 Q What do you mean, "by knowing Jeanne 10:19</p> <p>22 and Bud Jaeger"? 10:19</p> <p>23 A I have known Jeanne Jaeger and Bud 10:19</p> <p>24 Jaeger for probably close to 20 years now from 10:20</p> <p>25 working at the beach. 10:20</p>
Page 278	Page 280
<p>1 T. Bacon</p> <p>2 no or I don't know. 10:18</p> <p>3 A I don't know. 10:18</p> <p>4 Q Do you know whether he hired anybody 10:18</p> <p>5 when he was the sergeant? 10:18</p> <p>6 A I don't know. 10:18</p> <p>7 Q Now, there was an incident that we 10:18</p> <p>8 have been referring to as the "Halloween incident" 10:18</p> <p>9 that was in Houser's the night before Halloween in 10:18</p> <p>10 2004. 10:18</p> <p>11 Are you familiar with that 10:18</p> <p>12 incident -- 10:18</p> <p>13 A Somewhat. 10:18</p> <p>14 Q -- when I say the "Halloween 10:18</p> <p>15 incident"? 10:19</p> <p>16 What is your understanding of what 10:19</p> <p>17 happened there? 10:19</p> <p>18 MR. NOVIKOFF: Objection. My only 10:19</p> <p>19 objection, really, is on personal knowledge. 10:19</p> <p>20 I mean, I don't think you have laid a 10:19</p> <p>21 foundation that he has personal knowledge; 10:19</p> <p>22 and if he doesn't, then it's only -- then 10:19</p> <p>23 everything he knows is based upon what 10:19</p> <p>24 someone else may have told him or what he 10:19</p> <p>25 may have looked at, which may be appropriate 10:19</p>	<p>1 T. Bacon</p> <p>2 Q So, is the total amount of your 10:20</p> <p>3 knowledge based on what you learned from Bud or 10:20</p> <p>4 Jeanne Jaeger? 10:20</p> <p>5 A Yes. 10:20</p> <p>6 Q Have you ever spoken to Richie 10:20</p> <p>7 Bosetti about what happened that night? 10:20</p> <p>8 A No. 10:20</p> <p>9 Q Have you ever spoken to Gary Bosetti 10:20</p> <p>10 about what happened that night? 10:20</p> <p>11 A No. 10:20</p> <p>12 Q When did you first speak with Jeanne 10:20</p> <p>13 Jaeger about what happened that night? 10:20</p> <p>14 A Actually, the first person I spoke to 10:20</p> <p>15 was her husband, Bud. 10:20</p> <p>16 Q Okay. When did that conversation 10:20</p> <p>17 happen then? 10:20</p> <p>18 A The May after the incident. I don't 10:20</p> <p>19 -- I don't even -- when I came back that following 10:20</p> <p>20 May, and I had seen them at the beach. 10:20</p> <p>21 Q Okay. Just so I am clear, the 10:20</p> <p>22 incident happened, and I will represent that it 10:20</p> <p>23 happened in October of 2004. 10:20</p> <p>24 A Then -- 10:20</p> <p>25 Q Then it was May of 2005? 10:20</p>

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<p>1 T. Bacon</p> <p>2 A Correct. 10:20</p> <p>3 Q So prior to -- well, strike that. 10:21</p> <p>4 You said when you came back, what did 10:21</p> <p>5 you mean by that? 10:21</p> <p>6 A Back when I was working during the 10:21</p> <p>7 season of 2005. 10:21</p> <p>8 Q Did you work any tours off season 10:21</p> <p>9 between '04 and '05? 10:21</p> <p>10 A I'm sure I did. I don't recall 10:21</p> <p>11 specifically. 10:21</p> <p>12 Q You don't recall one way or the other 10:21</p> <p>13 whether you worked any tours between Halloween '04 10:21</p> <p>14 and May of '05? 10:21</p> <p>15 A I'm sure I did, but I don't 10:21</p> <p>16 specifically recall. 10:21</p> <p>17 Q During those tours that you are sure 10:21</p> <p>18 that you worked, you never had heard anything 10:21</p> <p>19 about a Halloween incident? 10:21</p> <p>20 A No. 10:21</p> <p>21 Q So, the first -- your testimony is 10:21</p> <p>22 the first that you heard of a Halloween incident 10:21</p> <p>23 was in May of '05 from Bud Jaeger? 10:21</p> <p>24 A Correct. 10:21</p> <p>25 Q What medium did the conversation 10:21</p>	<p>1 T. Bacon</p> <p>2 A Four. 10:22</p> <p>3 Q How many blocks from Houser's is 10:22</p> <p>4 that? 10:22</p> <p>5 A Six. 10:22</p> <p>6 Q Do you have to pass the police -- 10:22</p> <p>7 A -- the police station to get to 10:22</p> <p>8 Houser's from where their apartment was located. 10:22</p> <p>9 Q And how many blocks from CJ's is 10:22</p> <p>10 their apartment? 10:22</p> <p>11 A Three. 10:23</p> <p>12 Q So, it goes their apartment, CJ's, 10:23</p> <p>13 police station, and then Houser's -- 10:23</p> <p>14 A Correct. 10:23</p> <p>15 Q -- in terms of the walk? 10:23</p> <p>16 A Um-hum, yes. I'm sorry. 10:23</p> <p>17 Q Tell me everything that you recall 10:23</p> <p>18 that Bud Jaeger stated to you during that 10:23</p> <p>19 conversation. 10:23</p> <p>20 A I think -- well, I saw him. 10:23</p> <p>21 I hadn't seen him since the end of 10:23</p> <p>22 the previous season, Labor Day, somewhere about 10:23</p> <p>23 there. 10:23</p> <p>24 It was good to see him, his wife. 10:23</p> <p>25 Just asking what had transpired over the winter 10:23</p>
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<p>1 T. Bacon</p> <p>2 happen? Was it over the phone, in person, by 10:21</p> <p>3 e-mail? 10:21</p> <p>4 A In person. 10:21</p> <p>5 Q That was in the Village of Ocean 10:21</p> <p>6 Beach? 10:21</p> <p>7 A Yes. 10:21</p> <p>8 Q Who was part of that conversation? 10:22</p> <p>9 A Myself, Bud and his wife, Jeanne. 10:22</p> <p>10 Q So, the three of you? 10:22</p> <p>11 A Yes. 10:22</p> <p>12 Q Where were you located when that 10:22</p> <p>13 happened, that conversation? 10:22</p> <p>14 A Up on the porch or balcony of their 10:22</p> <p>15 apartment. 10:22</p> <p>16 Q Were you on duty? 10:22</p> <p>17 A Yes. 10:22</p> <p>18 Q Where is their apartment or where was 10:22</p> <p>19 their apartment at the time? 10:22</p> <p>20 A Right across from the Community 10:22</p> <p>21 Center or movie theater. 10:22</p> <p>22 Q What street that is located on? 10:22</p> <p>23 A Bay Walk. 10:22</p> <p>24 Q How many blocks from the police 10:22</p> <p>25 station is that? 10:22</p>	<p>1 T. Bacon</p> <p>2 months. You know, how life's been treating me, 10:23</p> <p>3 how life's been treating him, stuff like that. 10:23</p> <p>4 You know, he had asked if I worked 10:23</p> <p>5 any during the winter. 10:23</p> <p>6 I said I had. 10:23</p> <p>7 He asked me if I knew anything about 10:23</p> <p>8 what happened back on Halloween? 10:23</p> <p>9 I said I didn't. And he proceeded to 10:23</p> <p>10 tell me about what happened on Halloween. 10:23</p> <p>11 Q What did he tell you? 10:24</p> <p>12 A He said that while his wife was at 10:24</p> <p>13 the bar, she went to go use the ladies room. The 10:24</p> <p>14 door was locked. 10:24</p> <p>15 She was banging on the door. She 10:24</p> <p>16 waited a little while, nobody came out. She 10:24</p> <p>17 knocked on the door again, waited another little 10:24</p> <p>18 while, knocked on the door again, and a girl came 10:24</p> <p>19 out, grabbed her by the throat, because she was 10:24</p> <p>20 busy giving her boyfriend a blow job in the 10:24</p> <p>21 bathroom; that apparently the Bosettis, one of the 10:24</p> <p>22 Bosettis, I'm not certain who it was, tried to 10:24</p> <p>23 intervene, break it up. 10:24</p> <p>24 The girl's boyfriend came after him. 10:24</p> <p>25 He identified himself as a cop, a struggle ensued, 10:24</p>

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1 T. Bacon
2 something happened, one of them grabbed a pool cue 10:24
3 and struck the guy with it. 10:24
4 **Q What do you mean by "one of them"? 10:24**
5 A One of the Bosettis. I'm not sure if 10:24
6 it was Richie or Gary. 10:24
7 And, you know the cops came, and when 10:25
8 the police came, I believe Bud wanted to know who 10:25
9 the incompetent officers were that handled the 10:25
10 case, because the way it went down is not the way 10:25
11 it was written up, according to Bud. 10:25
12 MR. NOVIKOFF: Did you say 10:25
13 incompetent or competent? 10:25
14 THE WITNESS: Incompetent. 10:25
15 MR. NOVIKOFF: Okay. 10:25
16 BY MR. GOODSTADT: 10:25
17 **Q Do you recall anything else that he 10:25**
18 **told you, that he said to you about what happened 10:25**
19 **that night? 10:25**
20 A He was upset, because I guess shortly 10:25
21 after that the Bosettis were fired over the 10:25
22 incident, based on how it was originally 10:25
23 portrayed. 10:25
24 He wrote a letter to the chief, made 10:25
25 phone calls to the chief, maybe even the mayor or 10:25

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1 T. Bacon
2 one of the Village board members, telling them 10:25
3 that is not how it happened, the whole beginning 10:25
4 part of the incident was left out, and the 10:26
5 Bosettis were rehired after that. 10:26
6 **Q And prior to that conversation, had 10:26**
7 **you learned that the Bosettis had been fired? 10:26**
8 A I didn't know what has transpired 10:26
9 during that season. 10:26
10 **Q So, this is the first time that you 10:26**
11 **learned anything about the Bosettis being fired? 10:26**
12 A Right. 10:26
13 **Q Do you recall anything else that he 10:26**
14 **said to you during the conversation? 10:26**
15 A Nothing specific. That was the sum 10:26
16 and substance of the conversation. 10:26
17 **Q Did you say anything to him during 10:26**
18 **the conversation? 10:26**
19 A I told him I really had no knowledge 10:26
20 of what went on. I wasn't there. 10:26
21 **Q But he specifically said to you that 10:26**
22 **one of the Bosettis hit somebody with a pool cue? 10:26**
23 A I believe he did. 10:26
24 **Q Did Jeanne Jaeger say anything? 10:26**
25 A She was -- she was pretty irate. She 10:26

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1 T. Bacon
2 basically echoed the same sum and substance of 10:26
3 what happened. 10:26
4 **Q Did she mention that one of the 10:26**
5 **Bosettis had used a pool cue to hit somebody? 10:26**
6 A I could have been Bud, it could have 10:26
7 been Jeanne. I don't remember specifically who. 10:26
8 **Q Did one of them tell you that they 10:27**
9 **actually witnessed one of the Bosettis hit 10:27**
10 **somebody with a pool cue? 10:27**
11 A Like I said, I don't remember the 10:27
12 specifics, but that was all part of the 10:27
13 conversation. 10:27
14 **Q Did you have a response when he asked 10:27**
15 **who the incompetent officers who were on the scene 10:27**
16 **were? 10:27**
17 A No, because I didn't know who it was. 10:27
18 **Q Do you recall anything else that was 10:27**
19 **discussed during that conversation? 10:27**
20 A How things were going at his job, you 10:27
21 know. He became a captain in the City Fire 10:27
22 Department. He was in 117 truck. He loved it. 10:27
23 Jeanne was flying. You know, she was 10:27
24 a flight attendant for United, how things we're 10:27
25 going, just talked about almost everything under 10:27

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1 T. Bacon
2 the sun, you know. 10:27
3 **Q How long did the conversation last? 10:27**
4 A Half hour. 10:27
5 **Q Were you partnered with somebody on 10:27**
6 **that tour? 10:28**
7 A No. 10:28
8 **Q Anything else you recall that either 10:28**
9 **you or either Bud Jaeger or Jeanne Jaeger said 10:28**
10 **during that conversation? 10:28**
11 A No. 10:28
12 **Q Did you discuss that conversation 10:28**
13 **with anyone? 10:28**
14 A No. 10:28
15 **Q How many other times did you speak 10:28**
16 **with Jeanne or Bud Jaeger about that Halloween 10:28**
17 **incident other than that one instance? 10:28**
18 A Probably just that. I saw Bud and 10:28
19 Jeanne almost every shift I worked. 10:28
20 **Q Did you discuss the Halloween 10:28**
21 **incident -- 10:28**
22 A No. 10:28
23 **Q -- with them after that? 10:28**
24 **So, only that one time? 10:28**
25 A To the best of my knowledge, yes. 10:28

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<p>1 T. Bacon</p> <p>2 Q Other than for that one half-hour 10:28</p> <p>3 conversation in which Halloween incident was 10:28</p> <p>4 discussed, have you spoken with anybody else at 10:28</p> <p>5 any other time about anything to do with the 10:28</p> <p>6 Halloween incident, other than for me today? 10:28</p> <p>7 A Not that I recall. 10:28</p> <p>8 Q You don't recall telling Rich Bosetti 10:29</p> <p>9 how upset you were with the way that the officers 10:29</p> <p>10 handled it? 10:29</p> <p>11 A No, I don't. 10:29</p> <p>12 Q You don't recall telling Rich Bosetti 10:29</p> <p>13 you were pissed off about it? 10:29</p> <p>14 A No, I don't recall that. 10:29</p> <p>15 Q Did you ever speak to the Bosettis 10:29</p> <p>16 about it? 10:29</p> <p>17 A Not that I recall. 10:29</p> <p>18 Q Did you ever speak to George Hesse 10:29</p> <p>19 about the Halloween incident? 10:29</p> <p>20 A No. 10:29</p> <p>21 Q Did you ever speak to Pat Cherry, Sr. 10:29</p> <p>22 about it? 10:29</p> <p>23 A No. 10:29</p> <p>24 Q Did you ever read any documents about 10:29</p> <p>25 the Halloween incident? 10:29</p>	<p>1 T. Bacon</p> <p>2 Q What do you mean by "that summer," 10:30</p> <p>3 the summer of '05? 10:30</p> <p>4 A Just what happened. 10:30</p> <p>5 Q I don't mean what did you say. I 10:30</p> <p>6 mean, you don't think it was that summer of '05? 10:30</p> <p>7 A It may have been -- it could have 10:30</p> <p>8 been the summer of '05. It could have been the 10:30</p> <p>9 summer -- I don't recall. 10:30</p> <p>10 Q Where were you when you had that 10:30</p> <p>11 conversation with Tommy Snyder? 10:30</p> <p>12 A In front of the police station. 10:30</p> <p>13 Q Were you on duty? 10:30</p> <p>14 A Yes. 10:30</p> <p>15 Q Was he on duty? 10:30</p> <p>16 A Yes. 10:30</p> <p>17 Q Who else was there? 10:30</p> <p>18 A Just me and Tommy. 10:30</p> <p>19 Q What did you say to Tommy Snyder 10:30</p> <p>20 during that conversation? 10:31</p> <p>21 A We were sitting on a golf cart, and 10:31</p> <p>22 just talking about, you know, stuff, nothing that 10:31</p> <p>23 really comes to mind. 10:31</p> <p>24 The Bosettis were walking back from 10:31</p> <p>25 the direction of the houses, and he was talking 10:31</p>
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<p>1 T. Bacon</p> <p>2 A I did not. 10:29</p> <p>3 Q Did you ever -- 10:29</p> <p>4 MR. NOVIKOFF: Hold on. You just 10:29</p> <p>5 have to let him finish the question. 10:29</p> <p>6 BY MR. GOODSTADT: 10:29</p> <p>7 Q Did you ever read that letter that 10:29</p> <p>8 Bud Jaeger told that he sent to the chief? 10:29</p> <p>9 A No, I did not. 10:29</p> <p>10 Q Did you ever read any of the witness 10:29</p> <p>11 statements that were taken? 10:29</p> <p>12 A I did not. 10:29</p> <p>13 Q Did you ever read the field report 10:29</p> <p>14 that the on-duty officers filled out? 10:30</p> <p>15 A I did not. 10:30</p> <p>16 Q Did you ever review the statements 10:30</p> <p>17 that the on-duty officers took from the people who 10:30</p> <p>18 were involved in the fight that night? 10:30</p> <p>19 A I did not. 10:30</p> <p>20 Q Did you ever speak with any of the 10:30</p> <p>21 plaintiffs about the Halloween incident? 10:30</p> <p>22 A I may have said something to Tommy 10:30</p> <p>23 Snyder about it one night when we were working, 10:30</p> <p>24 asking what happened. I don't even think it was 10:30</p> <p>25 that summer. 10:30</p>	<p>1 T. Bacon</p> <p>2 about how he didn't like the Bosettis, couldn't 10:31</p> <p>3 stand the Bosettis. They were nothing but trouble 10:31</p> <p>4 and stuff like that. 10:31</p> <p>5 And I asked him -- and I believe he 10:31</p> <p>6 brought up the Halloween incident, and I asked 10:31</p> <p>7 what had happened, and he went off on a tirade 10:31</p> <p>8 talking about the Bosettis; that we were going to 10:31</p> <p>9 have to call a priest for an exorcism. 10:31</p> <p>10 I mean, he was just screaming and 10:31</p> <p>11 cursing and everything else. 10:31</p> <p>12 And that was pretty much it. 10:31</p> <p>13 I said, "Well, I heard you had a hand 10:31</p> <p>14 in it," and then he really went off, you know over 10:32</p> <p>15 that. 10:32</p> <p>16 Q What did he say? 10:32</p> <p>17 A I don't remember specifically, but, 10:32</p> <p>18 you know, "I did my job," and, you know, "they 10:32</p> <p>19 fucked up. It's all them. It wasn't me. It 10:32</p> <p>20 wasn't the guys we were working with," you know, 10:32</p> <p>21 trying to defend his actions. 10:32</p> <p>22 Q Did Snyder say anything else that you 10:32</p> <p>23 recall during that conversation? 10:32</p> <p>24 A No. 10:32</p> <p>25 Q Do you recall what Snyder said about 10:32</p>

8 (Pages 289 to 292)

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1 **T. Bacon**

2 **the Bosettis, other than that you have to call a 10:32**

3 **priest for an exorcism? 10:32**

4 A No, no. He didn't say that. 10:32

5 I said, "I thought I was going to 10:32

6 have to call a priest for an exorcism because he 10:32

7 was acting so irrationally." 10:32

8 **Q Tom Snyder was acting irrationally? 10:32**

9 A Yes. He went off on a tirade, a 10:32

10 complete tirade about his hate and loathe for the 10:32

11 Bosettis. 10:32

12 **Q You don't recall specifically 10:32**

13 **anything he said about that? 10:32**

14 A No. 10:32

15 **Q Have you ever spoken to Tom Snyder 10:32**

16 **prior to that about his feelings about the 10:32**

17 **Bosettis? 10:32**

18 A I think there was one time Tom and I 10:33

19 had -- not probably, definitely. We went to the 10:33

20 hero shop and we were eating. 10:33

21 And my issue with the Bosettis was 10:33

22 that during the wintertime, they were working all 10:33

23 the hours, and it was easy for the chief just to 10:33

24 schedule them for the entire week, rather than 10:33

25 pick up the phone and try and divvy up hours 10:33

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1 **T. Bacon**

2 amongst the rest of the guys. And that was the 10:33

3 sum and substance of our conversation about the 10:33

4 Bosettis. 10:33

5 **Q Any other conversation that you 10:33**

6 **recall with Snyder about his feelings about the 10:33**

7 **Bosettis? 10:33**

8 A Not that I recall. 10:33

9 **Q Did you ever speak with any other 10:33**

10 **plaintiffs about the Bosettis? 10:33**

11 A Not that I recall. 10:33

12 MR. NOVIKOFF: Plaintiffs: Lamm, 10:33

13 Carter -- 10:33

14 MR. GOODSTADT: Any other plaintiffs 10:33

15 in this case. 10:33

16 MR. NOVIKOFF: Okay. 10:33

17 A Not that I recall. 10:33

18 **Q In the conversation you testified to, 10:33**

19 **that you had with Snyder out in front of the 10:33**

20 **station, where you thought you had to call a 10:33**

21 **priest for an exorcism. 10:33**

22 **Do you recall anything that you said 10:33**

23 **in that conversation? 10:34**

24 MR. NOVIKOFF: Objection. 10:34

25 A Just asking him what his issue was 10:34

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1 **T. Bacon**

2 with the Bosettis. 10:34

3 **Q Did you tell Snyder about the 10:34**

4 **conversation that you had with Bud Jaeger? 10:34**

5 A I think I had mentioned something 10:34

6 about that; that sent him further over the edge. 10:34

7 **Q What did you tell him about your 10:34**

8 **conversation with Bud Jaeger? 10:34**

9 A That, according to the original 10:34

10 victim, which was Jeanne Jaeger and her husband, 10:34

11 Bud, that is not how it went down, and that you 10:34

12 guys fucked up the investigation. 10:34

13 **Q At that point time, did you know what 10:34**

14 **they had done -- 10:34**

15 A No. 10:34

16 **Q -- with respect to the investigation? 10:34**

17 A No, I don't. 10:34

18 **Q Did you ask Bud or Jeanne Jaeger why 10:34**

19 **they didn't give a statement to the police that 10:34**

20 **night? 10:34**

21 A No. 10:34

22 MR. NOVIKOFF: Objection. 10:34

23 **Q Did you ask them why they didn't stay 10:34**

24 **in the bar when the police got there? 10:34**

25 MR. NOVIKOFF: Objection. 10:34

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1 **T. Bacon**

2 A I didn't know whether they left, I 10:34

3 didn't know whether they stayed. I wasn't there. 10:34

4 MR. NOVIKOFF: You are asking 10:34

5 questions that you haven't established a 10:34

6 foundation that he knew of. I mean -- 10:34

7 BY MR. GOODSTADT: 10:35

8 **Q Did you ask them whether they gave a 10:35**

9 **statement to police that night? 10:35**

10 A I did not. 10:35

11 **Q Do you know whether they gave a 10:35**

12 **statement to the police that night? 10:35**

13 A I do not. 10:35

14 **Q As a police officer for almost 20 10:35**

15 **years now in Ocean Beach -- 10:35**

16 MR. NOVIKOFF: Part-time police 10:35

17 officer. 10:35

18 MR. GOODSTADT: Part-time police 10:35

19 officer, police officer nonetheless. 10:35

20 MR. NOVIKOFF: That's up for debate. 10:35

21 BY MR. GOODSTADT: 10:35

22 **Q Do you, do you believe that Jeanne 10:35**

23 **Jaeger, after telling you about her being a 10:35**

24 **victim, should have given a statement to the 10:35**

25 **police that night? 10:35**

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1 **T. Bacon**

2 MR. NOVIKOFF: Objection. You can 10:35

3 answer. 10:35

4 A Yes. I do believe she should have. 10:35

5 **Q And I know I asked this question, but 10:35**

6 **before you told me you hadn't spoken to anybody 10:36**

7 **else about Halloween, we have now established you 10:36**

8 **did speak with somebody else, that was Snyder. 10:36**

9 A That was after speaking with Jaeger. 10:36

10 **Q When I ask a question about did you 10:36**

11 **ever speak to anybody else about Halloween, I'm 10:36**

12 **talking about from the day you were born until 10:36**

13 **today. 10:36**

14 **Have you ever spoken to anybody else, 10:36**

15 **other than for the conversation you testified to 10:36**

16 **with Bud and Jeanne Jaeger, and the conversation 10:36**

17 **you have already testified to with Snyder, have 10:36**

18 **you spoken to anybody else about anything to do 10:36**

19 **with the Halloween incident? 10:36**

20 A No. 10:36

21 MR. NOVIKOFF: Objection to the form 10:36

22 as to the timeframe. 10:36

23 **Q From October of 2004 until today, 10:36**

24 **same question? 10:36**

25 A No. 10:36

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1 T. Bacon

2 **Q And same question, just so we are 10:36**

3 **clear on the timeframes, from October 2004 until 10:36**

4 **today, have you ever seen the letter that Bud 10:36**

5 **Jaeger told you that he sent? 10:36**

6 MR. NOVIKOFF: Objection. Asked and 10:36

7 answered. You can answer. 10:36

8 A No. I have never seen any of the 10:37

9 file pertaining to that case. 10:37

10 **Q Okay. So, you have never seen any of 10:37**

11 **the witness statements, any of the letters -- 10:37**

12 MR. NOVIKOFF: Objection. 10:37

13 A Nothing in the file, not a field 10:37

14 report, not a witness statement, nothing, not even 10:37

15 the jacket folder. 10:37

16 **Q Do you believe that the officers on 10:37**

17 **duty that night handled themselves appropriately? 10:37**

18 MR. NOVIKOFF: Objection. Again, 10:37

19 foundation. 10:37

20 He's testified that he's seen no 10:37

21 reports. He's testified that he hasn't 10:37

22 talked to Hesse or Paradiso about it, and he 10:37

23 has testified the only people that he has 10:37

24 spoken to about the incidents are Jeanne and 10:37

25 Bud Jaeger and I believe one of the 10:37

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1 T. Bacon

2 Bosettis. 10:37

3 So, Andrew, I mean, to ask at him 10:37

4 that question, what is it based on? 10:37

5 MR. GOODSTADT: That's why I am 10:37

6 asking the question. I want to find out the 10:37

7 basis. 10:37

8 MR. NOVIKOFF: To the extent he even 10:37

9 has a basis for it. 10:37

10 MR. GOODSTADT: If he doesn't have a 10:37

11 belief, he can tell me he doesn't have a 10:37

12 belief one way or the other. 10:38

13 MR. NOVIKOFF: That wasn't the 10:38

14 question. 10:38

15 MR. GOODSTADT: That was the 10:38

16 question. 10:38

17 MR. NOVIKOFF: You said, "do you 10:38

18 believe." 10:38

19 MR. GOODSTADT: So, if he doesn't 10:38

20 believe, that's what I am asking, same 10:38

21 question. 10:38

22 MR. NOVIKOFF: Objection. You can 10:38

23 answer. 10:38

24 MR. GOODSTADT: Why don't we read 10:38

25 back the question, just so we have a clear 10:38

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1 T. Bacon

2 record. I don't remember what the question 10:38

3 is. 10:38

4 MR. NOVIKOFF: The question should 10:38

5 be: "Do you have a belief one way or the 10:38

6 other," not "do you believe." 10:38

7 The question was also somewhat 10:38

8 leading. 10:38

9 MR. GOODSTADT: I don't think that is 10:38

10 appropriate at this stage, okay. 10:38

11 MR. NOVIKOFF: It's a form objection. 10:38

12 MR. GOODSTADT: Can we just read back 10:38

13 that question? 10:38

14 (Record read.) 10:38

15 MR. NOVIKOFF: Note my objection for 10:38

16 all the reasons previously stated. 10:38

17 A My answer is no, I do not believe 10:38

18 that. 10:38

19 **Q What is the basis of your belief? 10:38**

20 A There was a crime committed or an 10:38

21 attempted crime committed. Somebody was the 10:39

22 victim. They never interviewed the victim, you 10:39

23 know, and that would be Jeanne Jaeger, who was the 10:39

24 victim. 10:39

25 There was something that precipitated 10:39

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1 T. Bacon

2 one of the Bosettis or both of the Bosettis to 10:39

3 intervene, based on conversations with the -- the 10:39

4 Bosettis -- not Bosettis, excuse me, with the 10:39

5 Jaegers. 10:39

6 There was something that happened 10:39

7 that, from the way I see it, that there was an 10:39

8 agenda to tarnish the Bosettis and not fully 10:39

9 investigate the incident, and that's from knowing 10:39

10 after the fact. 10:39

11 I wasn't there. I didn't read any 10:39

12 paperwork. That is based on talking to Jeanne and 10:39

13 Bud Jaeger. 10:39

14 Q Okay. So, the basis of your belief 10:39

15 that the officers didn't act appropriately that 10:39

16 night was the conversation with Bud and Jeanne 10:39

17 Jaeger? 10:39

18 A Yes. 10:39

19 MR. NOVIKOFF: Objection. 10:39

20 Q And, again, you didn't ask whether 10:39

21 they attempted to give a statement to police, or 10:40

22 whether they stuck around or anything to that 10:40

23 effect? 10:40

24 MR. NOVIKOFF: Objection. Asked and 10:40

25 answered. 10:40

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1 T. Bacon

2 A I did not. I didn't know whether 10:40

3 they did or did not give a statement. 10:40

4 Q And what did you mean by "an agenda 10:40

5 to tarnish the reputation of the Bosettis"? 10:40

6 MR. NOVIKOFF: What was that 10:40

7 question? 10:40

8 (Record read.) 10:40

9 MR. NOVIKOFF: Got it. 10:40

10 A Because of the hate that Tom Snyder 10:40

11 had for the Bosettis, I think that that may have 10:40

12 prevented him from doing a thorough investigation. 10:40

13 Q And the basis of your belief of the 10:40

14 hate was just that one conversation that you had 10:40

15 with him or was there other -- 10:40

16 A It was a pretty embarrassing tirade 10:40

17 to be standing in Bay Walk, in front of the police 10:40

18 station with him over there when he was going 10:40

19 through that tirade. 10:40

20 Q Anybody else there during that 10:41

21 discussion? 10:41

22 A Probably about 50 people that walked 10:41

23 past from one point to another. 10:41

24 Q Nobody was actually part of your 10:41

25 discussion? 10:41

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1 T. Bacon

2 A No. 10:41

3 Q Do you remember anybody who walked 10:41

4 by? 10:41

5 A No. 10:41

6 Q Did you ever speak to Ed Paradiso 10:41

7 about the Halloween incident? 10:41

8 A No. 10:41

9 Q And just so we are clear, when I say 10:41

10 "speak with," I intend that to mean in person, 10:41

11 over the phone, e-mail, any -- any form of 10:41

12 communication just, so we are clear? 10:41

13 A Never. 10:41

14 Q So, your answer doesn't change based 10:41

15 on that definition? 10:41

16 A Correct. 10:41

17 Q Did you ever speak to the Bosettis 10:41

18 about their termination? 10:41

19 MR. NOVIKOFF: Objection to form. 10:41

20 I don't think you have laid a 10:41

21 foundation that they both were terminated, 10:41

22 but you can answer the question. 10:41

23 A I knew they were terminated or one of 10:41

24 them were terminated. I don't know which one or 10:41

25 both. 10:42

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1 T. Bacon

2 Q Did you ever speak to either of them 10:42

3 about the fact that one or both of them had been 10:42

4 terminated? 10:42

5 MR. NOVIKOFF: As it relates to the 10:42

6 Halloween incident? 10:42

7 MR. GOODSTADT: Yes. In '04. 10:42

8 I'm not talking about any more recent 10:42

9 terminations. 10:42

10 MR. NOVIKOFF: Okay. Fine. 10:42

11 A No. 10:42

12 Q Did you ever speak to George Hesse 10:42

13 about the fact that one or more of the Bosettis 10:42

14 had been terminated in '04? 10:42

15 A No. 10:42

16 Q Did you ever speak to Ed Paradiso 10:42

17 about that? 10:42

18 A No. 10:42

19 Q Do you know what the Ocean Beach 10:42

20 Police Department did, if anything, to investigate 10:42

21 the Halloween incident? 10:42

22 A No idea. 10:42

23 Q And I know you said you didn't read 10:42

24 any witness statements or anything else in the 10:42

25 file, but are you aware of any witnesses who gave 10:42

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1 T. Bacon

2 any statements? 10:42

3 A I am not. 10:42

4 Q Do you know who Doug Wyckoff is? 10:42

5 A Yes. 10:43

6 Q Who is Doug Wyckoff? 10:43

7 A He's a member of the fire department. 10:43

8 Q Which fire department? 10:43

9 A Ocean Beach. 10:43

10 Q Are you friends with Doug Wyckoff? 10:43

11 A I know him in passing. 10:43

12 Q Does he work as a bouncer at any of 10:43

13 the bars in Ocean Beach? 10:43

14 A He also works at CJ's as a bouncer 10:43

15 and I believe he's a school teacher. 10:43

16 Q In Ocean Beach School District? 10:43

17 A I'm not sure where he teaches. 10:43

18 MR. NOVIKOFF: There is actually a 10:43

19 school district of Ocean Beach? 10:43

20 THE WITNESS: Yes. 10:43

21 MR. GOODSTADT: I think there is a 10:43

22 school district. 10:43

23 Q Who is Sean O'Rourke? 10:43

24 A Sean O'Rourke, he's a bouncer in 10:43

25 Ocean Beach, also. 10:43

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1 T. Bacon

2 Q What bars does he bounce at? 10:43

3 A Actually, I think he's at Houser's. 10:43

4 Also a member of the fire department. 10:43

5 Q Do you know whether he's ever been 10:44

6 arrested in Ocean Beach? 10:44

7 A No idea. 10:44

8 Q Are you friends with Sean O'Rourke? 10:44

9 Are you friends with sean O'Rourke? 10:44

10 A Other than, "Hi, how are you," while 10:44

11 on patrol, no. 10:44

12 Q Have ever spoke with Sean O'Rourke 10:44

13 about the Halloween incident? 10:44

14 A No. 10:44

15 Q Who is Elise Miller? 10:44

16 A I don't know her. 10:44

17 Q Do you know who Mike Miller is? 10:44

18 A No. 10:44

19 Q Do you know who Ian Levine is? 10:44

20 A Yes. 10:44

21 Q Who is Ian Levine? 10:44

22 A Someone, who is also a member of the 10:44

23 fire department. 10:44

24 Q The Ocean Beach Fire Department? 10:44

25 A Yes. 10:44

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1 T. Bacon

2 Q Are you friends with Ian Levine? 10:44

3 A Once again, nothing more than "Hi, 10:44

4 how are you," when I am working. 10:44

5 Q Did you ever speak with Ian Levine 10:44

6 about the Halloween incident? 10:44

7 A No. 10:44

8 MR. NOVIKOFF: Wouldn't those 10:45

9 questions, again, be subsumed within the two 10:45

10 or three questions that you asked did he 10:45

11 speak to anybody else other than Jaeger and 10:45

12 Bosetti? It just seems like he answered 10:45

13 that. 10:45

14 MR. GOODSTADT: Yes. And then he 10:45

15 remembered a conversation that he had with 10:45

16 Tom Snyder. So, I just want to be sure that 10:45

17 I am clear. 10:45

18 MR. NOVIKOFF: That's fine. 10:45

19 BY MR. GOODSTADT: 10:45

20 Q Did you attend any of the court 10:45

21 appearances of any of the people who were involved 10:45

22 in the Halloween incident? 10:45

23 A No. 10:45

24 Q Did you ever speak to anyone in the 10:45

25 District Attorney's office about the Halloween? 10:45

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1 T. Bacon

2 A No. 10:45

3 Q Have you ever spoken with anyone in 10:45

4 the District Attorney's office about anything to 10:45

5 do with respect to your employment at Ocean Beach? 10:45

6 A No. 10:45

7 MR. GOODSTADT: Just mark this 10:46

8 please. 10:46

9 (Bacon Exhibit 10 marked for 10:46

10 identification as of this date.) 10:46

11 Q What was the -- strike that. 10:46

12 Was there an annual department 10:46

13 meeting before the season? 10:46

14 A Yes. 10:46

15 Q Every year? 10:46

16 A Yes, most years. 10:46

17 Q Did you attend it every year in which 10:46

18 you worked at Ocean Beach? 10:47

19 A Most years, not every year. 10:47

20 Q How did you learn about the date that 10:47

21 that was going to occur each year? 10:47

22 A They would send out a memo. 10:47

23 Q When you say "they," who is they? 10:47

24 A The police department, George or the 10:47

25 Chief. 10:47

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<p>1 T. Bacon</p> <p>2 Q And who would preside over the annual 10:47</p> <p>3 department preseason meeting? 10:47</p> <p>4 A The Chief. 10:47</p> <p>5 Q So, Ed Paradiso? 10:47</p> <p>6 A Yes. 10:47</p> <p>7 Q And did there come a point in time 10:47</p> <p>8 where George Hesse started presiding over it? 10:47</p> <p>9 A Yes. 10:47</p> <p>10 Q What was the first year that you 10:47</p> <p>11 recall George Hesse presiding over the meeting? 10:47</p> <p>12 A The first year that Eddie was out on 10:47</p> <p>13 his line-of-duty injury. 10:47</p> <p>14 Q Do you recall what year that was? 10:47</p> <p>15 A No, I don't. 10:47</p> <p>16 Q I place in front of, Mr. Bacon, what 10:47</p> <p>17 has now been marked as Bacon 10. 10:47</p> <p>18 It's a one-page exhibit bearing Bates 10:47</p> <p>19 number 2662. 10:47</p> <p>20 Mr. Bacon, do you recall receiving 10:47</p> <p>21 this memo that has now been marked as Bacon 10? 10:48</p> <p>22 A Yes. 10:48</p> <p>23 Q And how did you receive this? Was it 10:48</p> <p>24 something that was mailed to your home, or handed 10:48</p> <p>25 to you at the station, or some other way? 10:48</p>	<p>1 T. Bacon</p> <p>2 officers." Do you see that? 10:49</p> <p>3 A The second line -- 10:49</p> <p>4 MR. NOVIKOFF: Starting with "All 10:49</p> <p>5 officers are required"? 10:49</p> <p>6 MR. GOODSTADT: Yes. 10:49</p> <p>7 MR. NOVIKOFF: That is the third 10:49</p> <p>8 line -- second line, third sentence. 10:49</p> <p>9 MR. GOODSTADT: End of the second 10:49</p> <p>10 line. 10:49</p> <p>11 A Yes. 10:49</p> <p>12 Q "All officers are required to bring 10:49</p> <p>13 all issued equipment with them for inspection." 10:49</p> <p>14 Do you see that? 10:49</p> <p>15 A Yes. 10:49</p> <p>16 Q Was that an annual requirement? 10:49</p> <p>17 MR. NOVIKOFF: Objection. 10:49</p> <p>18 A I don't recall. 10:49</p> <p>19 Q So, you don't recall whether each 10:49</p> <p>20 year you had to bring in your issued equipment for 10:49</p> <p>21 inspection? 10:49</p> <p>22 A No, I don't recall. 10:49</p> <p>23 Q Do you recall whether you brought all 10:49</p> <p>24 your equipment to this meeting? 10:49</p> <p>25 A I don't recall if I even attended 10:49</p>
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<p>1 T. Bacon</p> <p>2 A Mailed to my home. 10:48</p> <p>3 Q Did you work any tours in the '05 off 10:48</p> <p>4 season? 10:48</p> <p>5 A I'm sure I did, but I don't recall 10:48</p> <p>6 specifically. 10:48</p> <p>7 Q And prior to -- well, strike that. 10:48</p> <p>8 Did you attend the April 2nd, 2006, 10:48</p> <p>9 meeting? 10:48</p> <p>10 A I may have. I don't recall 10:48</p> <p>11 specifically. 10:48</p> <p>12 Q Do you recall speaking with George 10:48</p> <p>13 Hesse at all about staffing issues prior to the 10:48</p> <p>14 '06 meeting? 10:48</p> <p>15 MR. NOVIKOFF: Objection. You can 10:48</p> <p>16 answer. 10:48</p> <p>17 A I don't recall. 10:48</p> <p>18 Q Did you receive anything else from 10:48</p> <p>19 Ocean Beach announcing this meeting or is this the 10:49</p> <p>20 only document that you received? 10:49</p> <p>21 A To the best of my recollection, I 10:49</p> <p>22 believe that was it. 10:49</p> <p>23 Q And could you take a look at 10? 10:49</p> <p>24 If you look down on the second line, 10:49</p> <p>25 toward the end of the second line, it starts "All 10:49</p>	<p>1 T. Bacon</p> <p>2 this meeting. 10:49</p> <p>3 Q Do you recall being in a meeting at 10:49</p> <p>4 which the plaintiffs, at least four of the 10:50</p> <p>5 plaintiffs in this case were terminated prior to 10:50</p> <p>6 when the meeting started? 10:50</p> <p>7 A I wasn't there when it happened, no. 10:50</p> <p>8 Q You weren't at the meeting -- 10:50</p> <p>9 A No. 10:50</p> <p>10 Q -- on the day that the four officers 10:50</p> <p>11 were told that they weren't going to be working 10:50</p> <p>12 for the upcoming season? 10:50</p> <p>13 A Actually, I got there late. I did 10:50</p> <p>14 attend the meeting, but it was after that 10:50</p> <p>15 happened. 10:50</p> <p>16 Q What do you mean, you got there late. 10:50</p> <p>17 Did you get there after the meeting 10:50</p> <p>18 had started or after the discussions with the four 10:50</p> <p>19 officers? 10:50</p> <p>20 A After the -- 10:50</p> <p>21 MR. NOVIKOFF: Objection. You can 10:50</p> <p>22 answer. 10:50</p> <p>23 A After the meeting started and after 10:50</p> <p>24 the discussion with the four plaintiffs. 10:50</p> <p>25 Q Okay. So, now that you have -- if I 10:50</p>

13 (Pages 309 to 312)

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1 **T. Bacon**

2 **represent to you that it was April 2nd, 2006, that** 10:50

3 **the discussion with those officers happened, that** 10:50

4 **refreshes your recollection that you were actually** 10:50

5 **at the meeting in '06?** 10:50

6 A Yes. 10:50

7 **Q And now that you recall that you were** 10:50

8 **there, do you recall whether you actually brought** 10:50

9 **your issued equipment for inspection?** 10:51

10 A I believe I did. 10:51

11 **Q Was all your equipment inspected?** 10:51

12 A That I don't recall. 10:51

13 **Q Who generally inspected the equipment** 10:51

14 **for the Ocean Beach Police Department, if anyone?** 10:51

15 A George had inspected the equipment. 10:51

16 He wanted to insure that everybody had firearms 10:51

17 that were registered to them, the serial numbers 10:51

18 matched up and stuff like that. 10:51

19 Like I said, I got there late. I got 10:51

20 there almost when the meeting was over and they 10:51

21 pulled me aside. I wanted to make sure I had my 10:51

22 three magazines for my firearm. He had to replace 10:51

23 two of them, because they were the older style, 10:51

24 and that I did have the weapon that was registered 10:51

25 to me, serial number. 10:51

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1 **T. Bacon**

2 **Q And the last time I believe you** 10:51

3 **testified that you used to carry your own personal** 10:51

4 **firearm, but then you started carrying an Ocean** 10:51

5 **Beach firearm; is that correct?** 10:51

6 MR. NOVIKOFF: Note my objection. 10:52

7 A Yes. 10:52

8 **Q In '06, were you carrying your own** 10:52

9 **firearm with respect to your position as a police** 10:52

10 **officer in Ocean Beach or at that point in time** 10:52

11 **you had a Beach-issued weapon?** 10:52

12 A From 1999 on, I have carried a 10:52

13 department-issued firearm. 10:52

14 **Q So, the answer was in '06, it was an** 10:52

15 **Ocean Beach firearm?** 10:52

16 A Correct. 10:52

17 **Q And it says in the fourth line, it** 10:52

18 **says, "new ID will be issued to all."** 10:52

19 **Do you see that?** 10:52

20 A Yes. 10:52

21 **Q Do you recall whether you actually** 10:52

22 **received a new ID that day?** 10:52

23 A We didn't receive it that day. They 10:52

24 took photographs. 10:52

25 **Q And did you subsequently receive a** 10:52

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1 **T. Bacon**

2 **new ID?** 10:52

3 A Yes. 10:52

4 **Q Was that ID different than the ones** 10:52

5 **that you carried previously?** 10:52

6 A It had an updated photograph. 10:52

7 **Q That was it, but everything else was** 10:52

8 **the same.** 10:52

9 A And the expiration date, I think, 10:52

10 changed. 10:52

11 **Q The format of the ID, other than the** 10:52

12 **picture and the expiration date, was the same?** 10:52

13 A I don't recall. 10:53

14 **Q It says here that meeting was to** 10:53

15 **start at 1200 hours.** 10:53

16 **Do you see that?** 10:53

17 A Yes. 10:53

18 **Q What time did you arrive?** 10:53

19 A Probably closer to one or 1:30. 10:53

20 **Q Did you have to sign in for meeting?** 10:53

21 A No. Actually, I don't recall if we 10:53

22 did or we didn't. I can't answer for certain. 10:53

23 **Q Do you recall whether you signed in?** 10:53

24 A I don't remember. 10:53

25 **Q Were you paid for attending that** 10:53

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1 **T. Bacon**

2 **meeting?** 10:53

3 A I don't remember. 10:53

4 **Q When did you first learn that the** 10:53

5 **plaintiffs in this case were no longer going to be** 10:53

6 **working at the beach?** 10:53

7 A When I got there. 10:53

8 **Q How did you find out?** 10:53

9 A The water taxi that brought me there, 10:53

10 they were all leaving. I came in on a water taxi 10:53

11 and they were leaving on that same water taxi. 10:54

12 **Q Did you speak to any of the** 10:54

13 **plaintiffs that day?** 10:54

14 A No. 10:54

15 **Q Did you say anything to the** 10:54

16 **plaintiffs that day?** 10:54

17 A No. 10:54

18 **Q How did you learn that they were not** 10:54

19 **going to be working there for the season?** 10:54

20 A I think I asked George when I got 10:54

21 there, "What happened?" 10:54

22 He said, "They weren't invited back," 10:54

23 something to that effect. 10:54

24 **Q Did he tell you why?** 10:54

25 A No. 10:54

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<p>1 T. Bacon</p> <p>2 Q Did you ever ask him why? 10:54</p> <p>3 A No. 10:54</p> <p>4 Q Sitting here today -- well, strike 10:54</p> <p>5 that. 10:54</p> <p>6 Do you recall which of the plaintiffs 10:54</p> <p>7 were getting on the water taxi that you took over? 10:54</p> <p>8 A I remember seeing Carter -- Carter 10:54</p> <p>9 and Snyder, I believe, Lamm, and -- 10:54</p> <p>10 MR. NOVIKOFF: Don't guess. If you 10:54</p> <p>11 know, you know. 10:54</p> <p>12 A Yeah. I don't remember for certain 10:54</p> <p>13 if it was all five or it was just a couple of 10:54</p> <p>14 them. I don't know. 10:54</p> <p>15 Q Do you specifically recall seeing any 10:54</p> <p>16 of them sitting here today? 10:54</p> <p>17 A Somebody, somebody was. There was at 10:54</p> <p>18 least three of them. 10:55</p> <p>19 Q I understand that, but my question 10:55</p> <p>20 was: Sitting here today, do you specifically 10:55</p> <p>21 recall -- 10:55</p> <p>22 A Who it was, no? 10:55</p> <p>23 Q Do you recall any of the people that 10:55</p> <p>24 they were specifically? 10:55</p> <p>25 A No. 10:55</p>	<p>1 T. Bacon</p> <p>2 11:05 a.m. 11:04</p> <p>3 We are back on the record. 11:04</p> <p>4 BY MR. GOODSTADT: 11:04</p> <p>5 Q So, I believe that you testified, 11:05</p> <p>6 before we took a break, that you learned that the 11:05</p> <p>7 plaintiffs were being let go from George Hesse; is 11:05</p> <p>8 that correct? 11:05</p> <p>9 A No. I learned that they were leaving 11:05</p> <p>10 when I was coming in. 11:05</p> <p>11 Q Right, but my question was when you 11:05</p> <p>12 learned that they were no longer going to be 11:05</p> <p>13 working -- 11:05</p> <p>14 A Yes. 11:05</p> <p>15 Q -- going forward; that was from 11:05</p> <p>16 George Hesse? 11:05</p> <p>17 A Yes. 11:05</p> <p>18 Q And how did he communicate to you? 11:05</p> <p>19 A I just asked what was -- "Where are 11:05</p> <p>20 they going," when I got there? 11:05</p> <p>21 He said, "They are no longer with 11:05</p> <p>22 us," or "they are not working anymore," something 11:05</p> <p>23 to that effect. 11:05</p> <p>24 Q When you got to the meeting, you 11:05</p> <p>25 asked George Hesse that question? 11:05</p>
Page 318	Page 320
<p>1 T. Bacon</p> <p>2 Q So, it could have been any 10:55</p> <p>3 combination of the five? 10:55</p> <p>4 A Right. 10:55</p> <p>5 Q And when you got there, the meeting 10:55</p> <p>6 had already been going on; is that correct? 10:55</p> <p>7 A Yes. 10:55</p> <p>8 Q Where was the meeting being held? 10:55</p> <p>9 A In the rec center, right behind the 10:55</p> <p>10 police station. 10:55</p> <p>11 Q How many people were at the meeting? 10:55</p> <p>12 A Twenty. 10:55</p> <p>13 Q Was it just for police officers or 10:55</p> <p>14 were other positions in the department there as 10:55</p> <p>15 well? 10:55</p> <p>16 A I think we may have had dispatchers 10:55</p> <p>17 and, perhaps, dockmasters, but I am not certain. 10:55</p> <p>18 Can we take a break for me to use the 10:55</p> <p>19 restroom? Just a quick -- 10:55</p> <p>20 MR. GOODSTADT: Yeah. That is fine 10:55</p> <p>21 with me. 10:55</p> <p>22 THE VIDEOGRAPHER: The time is 10:55</p> <p>23 10:56 a.m. We are going off the record. 10:55</p> <p>24 (Recess taken.) 11:04</p> <p>25 THE VIDEOGRAPHER: The time is 11:04</p>	<p>1 T. Bacon</p> <p>2 A Yes. 11:05</p> <p>3 Q Did you speak with anyone else about 11:05</p> <p>4 the guys that you saw leaving -- 11:05</p> <p>5 A No. 11:05</p> <p>6 Q -- prior to George Hesse? 11:05</p> <p>7 A No. 11:05</p> <p>8 Q How long after you got there did you 11:05</p> <p>9 ask George that question? 11:05</p> <p>10 A The meeting looked like it was pretty 11:05</p> <p>11 much over at that point, because I think the hero, 11:05</p> <p>12 you know, they had gotten a hero. We were going 11:05</p> <p>13 to be having lunch. 11:05</p> <p>14 There was some paperwork that I had 11:05</p> <p>15 to fill out. I had to have my ID card photo 11:06</p> <p>16 taken. A short time afterward, within 15 minutes 11:06</p> <p>17 of me getting there. 11:06</p> <p>18 Q And what do you recall George telling 11:06</p> <p>19 you about the fact they had been let go? 11:06</p> <p>20 A "They are not going to be working 11:06</p> <p>21 with us this season." 11:06</p> <p>22 Q You didn't ask him why? 11:06</p> <p>23 A No. 11:06</p> <p>24 Q He didn't tell you why? 11:06</p> <p>25 MR. NOVIKOFF: Objection. Asked and 11:06</p>

Page 321	Page 323
<p>1 T. Bacon</p> <p>2 answered. 11:06</p> <p>3 A No. 11:06</p> <p>4 Q Sitting here today, do you know why 11:06</p> <p>5 they were let go? 11:06</p> <p>6 MR. NOVIKOFF: Objection. 11:06</p> <p>7 Foundation. 11:06</p> <p>8 You can answer. 11:06</p> <p>9 A Sure. Because they were incompetent. 11:06</p> <p>10 Q And how do you know that that is the 11:06</p> <p>11 reason they were let go? 11:06</p> <p>12 A Because I worked with these guys. 11:06</p> <p>13 Q Did you know who made the decision to 11:06</p> <p>14 let them go? 11:06</p> <p>15 A I have no idea. 11:06</p> <p>16 Q Did anyone ever tell you they were 11:06</p> <p>17 let go because they were incompetent? 11:06</p> <p>18 A No. 11:06</p> <p>19 Q So, that is your -- 11:06</p> <p>20 A It's my opinion. 11:06</p> <p>21 Q -- your opinion? 11:06</p> <p>22 I'm not asking you -- I know I have 11:06</p> <p>23 asked you a lot about your opinion today, but this 11:06</p> <p>24 question is not a question about your opinion. 11:06</p> <p>25 I'm asking whether you know why they 11:06</p>	<p>1 T. Bacon</p> <p>2 were let go. 11:07</p> <p>3 MR. GOODSTADT: No. 11:07</p> <p>4 Q The question was intended to be: Who 11:07</p> <p>5 else have you spoken with about the fact that they 11:08</p> <p>6 had been let go, other than for George Hesse, 11:08</p> <p>7 which you already testified to that conversation; 11:08</p> <p>8 counsel, which I don't care what you said to 11:08</p> <p>9 counsel; and your wife, who also I don't care what 11:08</p> <p>10 you said to your wife. 11:08</p> <p>11 A That's it. 11:08</p> <p>12 Q Thank you. 11:08</p> <p>13 Have you ever spoken the Bosettis 11:08</p> <p>14 about any of the plaintiffs since April 2nd, 2006? 11:08</p> <p>15 A Nope. 11:08</p> <p>16 Q Never mentioned any of their names to 11:08</p> <p>17 the Bosettis? 11:08</p> <p>18 A No. 11:08</p> <p>19 MR. NOVIKOFF: Just -- I'm sorry. 11:08</p> <p>20 Just give me two seconds. I'm expecting one 11:08</p> <p>21 call. 11:08</p> <p>22 (Telephone interruption.) 11:08</p> <p>23 THE VIDEOGRAPHER: The time is 11:08</p> <p>24 11:08 a.m. 11:08</p> <p>25 We are going off the record. 11:08</p>
Page 322	Page 324
<p>1 T. Bacon</p> <p>2 were let go. 11:07</p> <p>3 A No, I do not. 11:07</p> <p>4 MR. NOVIKOFF: Just note my same 11:07</p> <p>5 objection to the prior, identical question. 11:07</p> <p>6 BY MR. GOODSTADT: 11:07</p> <p>7 Q Have you spoken with any of the 11:07</p> <p>8 plaintiffs since that April 2nd, 2006, date? 11:07</p> <p>9 A No. 11:07</p> <p>10 Q Who have you spoken with about the 11:07</p> <p>11 fact that the plaintiffs have been let go, between 11:07</p> <p>12 April 2nd and today? 11:07</p> <p>13 MR. NOVIKOFF: Other than counsel. 11:07</p> <p>14 Q Other than counsel. 11:07</p> <p>15 A My wife. 11:07</p> <p>16 Q Anyone else? 11:07</p> <p>17 A No. 11:07</p> <p>18 Q Just George Hesse and your wife? 11:07</p> <p>19 A Yes. 11:07</p> <p>20 Q And counsel? 11:07</p> <p>21 A Yes. 11:07</p> <p>22 MR. CONNOLLY: Objection, Andrew. 11:07</p> <p>23 Only in that -- you can read back the 11:07</p> <p>24 question. I think it infers that the 11:07</p> <p>25 witness spoke to George Hesse as to why they 11:07</p>	<p>1 T. Bacon</p> <p>2 (Recess taken.) 11:09</p> <p>3 THE VIDEOGRAPHER: The time is 11:09</p> <p>4 11:09 a.m. We are back on the record. 11:09</p> <p>5 BY MR. GOODSTADT: 11:09</p> <p>6 Q Just to go back to the last question, 11:09</p> <p>7 could I see it? 11:10</p> <p>8 Just so I am clear, I just don't want 11:10</p> <p>9 the semantics to get in the way. You never 11:10</p> <p>10 mentioned any of the plaintiffs' names to either 11:10</p> <p>11 Gary or Richard Bosetti? 11:10</p> <p>12 A Not that I recall. 11:10</p> <p>13 Q Do you recall either Gary or Richard 11:10</p> <p>14 Bosetti discussing anything at all about the 11:10</p> <p>15 plaintiffs in the case with you since April 2nd, 11:10</p> <p>16 2006? 11:10</p> <p>17 MR. NOVIKOFF: Note my objection. 11:10</p> <p>18 A I do not. 11:10</p> <p>19 Q Did you ever hear that there were 11:10</p> <p>20 budget cuts in the beginning of the season of 11:10</p> <p>21 2006? 11:10</p> <p>22 A No, I did not. 11:10</p> <p>23 Q Do you know whether there were any 11:10</p> <p>24 budget cuts in the Ocean Beach Police Department 11:10</p> <p>25 in 2006? 11:10</p>

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1 **T. Bacon**

2 MR. NOVIKOFF: Objection. 11:10

3 A I do not. 11:10

4 **Q I don't recall if I asked you this 11:10**

5 **question. Let me ask it again, if I did. 11:10**

6 **Did you say anything to any of the 11:10**

7 **officers who were getting on to the water taxi 11:10**

8 **that you were getting off of? 11:11**

9 A No. 11:11

10 **Q Didn't even exchange pleasantries, 11:11**

11 **nothing? 11:11**

12 A No. They seemed like they were 11:11

13 pretty annoyed, irate. Just pretty much went 11:11

14 storming by. 11:11

15 **Q Did you hear anything that they were 11:11**

16 **discussing amongst themselves at all? 11:11**

17 A I did not. 11:11

18 **Q What made you believe that they were 11:11**

19 **irate? 11:11**

20 A They just -- they stuck to 11:11

21 themselves, were on their way. They just didn't 11:11

22 seem happy. 11:11

23 **Q Did you get there for any of the 11:11**

24 **meeting? 11:11**

25 A I'm sorry. 11:11

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1 T. Bacon

2 **Q Did you get there for any of the 11:11**

3 **meeting? 11:11**

4 A Like I said, I caught the very tail 11:11

5 end and had to do the paperwork for the new ID 11:11

6 card, have my weapon inspected, my new ID card 11:11

7 photo. The meeting was pretty much over at that 11:11

8 point in time. 11:12

9 **Q So, you weren't there when anybody 11:12**

10 **was talking to the group? 11:12**

11 A No. 11:12

12 **Q Who is Chris Moran? 11:12**

13 A Chris Moran is a dockmaster. 11:12

14 **Q We he at that meeting? 11:12**

15 A I don't recall. 11:12

16 **Q Do you ever work at the same time as 11:12**

17 **Chris Moran? 11:12**

18 A Yes. He used to be the dockmaster, 11:12

19 now he's a dispatcher. 11:12

20 **Q Is Chris Moran a good dispatcher in 11:12**

21 **your opinion? 11:12**

22 MR. NOVIKOFF: Objection. 11:12

23 BY MR. GOODSTADT: 11:12

24 **Q You can answer. 11:12**

25 A Okay. Yeah, he seems to be pretty 11:12

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1 T. Bacon

2 good. 11:12

3 **Q Do you think he's an honest guy? 11:12**

4 MR. NOVIKOFF: Objection. 11:12

5 A Yes. 11:12

6 **Q Do you know whether any newly hired 11:12**

7 **officers were at that meeting? 11:12**

8 A I don't recall. 11:12

9 **Q Do you know whether any new officers 11:13**

10 **were hired for '06? 11:13**

11 A I don't recall. 11:13

12 **Q Did you hear or -- strike that. 11:13**

13 **Did you discuss the fact that some or 11:13**

14 **all the plaintiffs were no longer going to be 11:13**

15 **working there with anyone else on that day, other 11:13**

16 **than for the conversation you have already 11:13**

17 **testified to with George Hesse? 11:13**

18 MR. NOVIKOFF: Objection to the form. 11:13

19 A Not that I recall. 11:13

20 **Q Did you hear anybody else discussing 11:13**

21 **it? 11:13**

22 A Not that I recall. 11:13

23 **Q So, sitting here today, did you ever 11:13**

24 **hear anybody state the reasons why the plaintiffs 11:13**

25 **were let go? 11:13**

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1 T. Bacon

2 A Not that I recall. 11:14

3 **Q What's George Hesse's position today? 11:14**

4 MR. NOVIKOFF: Objection. 11:14

5 Foundation. 11:14

6 A Deputy Chief. 11:14

7 **Q Do you know whether you have to take 11:14**

8 **a test to become a Deputy Chief, a civil service 11:14**

9 **test? 11:14**

10 MR. NOVIKOFF: Objection, foundation. 11:14

11 A I don't know for sure. 11:14

12 **Q Do you know what a blog is? 11:14**

13 A Um-hum. 11:14

14 **Q What is a blog? 11:14**

15 A It's a, I guess, a computer web page, 11:14

16 people post things, usually full of nonsense, 11:14

17 ranting. 11:14

18 **Q Have you ever read a blog with 11:15**

19 **respect to Ocean Beach? 11:15**

20 A Yes. 11:15

21 **Q And what blog is that? 11:15**

22 A Ocean Beach Police Corruption. 11:15

23 **Q Did you ever post on that blog? 11:15**

24 A No, I did not. 11:15

25 **Q When was the first time you read the 11:15**

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1 **T. Bacon**

2 **Ocean Beach Police Corruption blog? 11:15**

3 A A couple years ago. 11:15

4 **Q Do you recall what year it was? 11:15**

5 A No, I don't. 11:15

6 **Q What computer did you read it on? 11:15**

7 MR. NOVIKOFF: Objection. 11:15

8 **Q Strike that. 11:15**

9 **Did you read it on a computer or did 11:15**

10 **you read it on a hard copy? 11:15**

11 A I read on it a computer. 11:15

12 **Q What computer did you read it on? 11:15**

13 A I don't recall. 11:15

14 **Q Did you ever read the Ocean Beach 11:15**

15 **Police Corruption blog at the Ocean Beach Police 11:15**

16 **Station? 11:15**

17 A Yes. 11:15

18 **Q On the Ocean Beach Police Station 11:15**

19 **computer? 11:15**

20 A Yes. 11:15

21 **Q How many times? 11:15**

22 A Three or four. 11:15

23 **Q Do you know what the website is that 11:16**

24 **you go to? Is it just Ocean Beach Police 11:16**

25 **Corruption.com? 11:16**

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1 **T. Bacon**

2 A No, I think it's Long Island 11:16

3 Politics. It's a pretty vast, covers the 11:16

4 volunteer fire service, the police department, 11:16

5 sheriffs. People post all sorts of nonsense on 11:16

6 there. 11:16

7 **Q Is that the one where you click on 11:16**

8 **the Schwartz report? Is that what it's called? 11:16**

9 A That I don't know. 11:16

10 **Q And other than for the three or four 11:16**

11 **times that you reviewed the blog at the police 11:16**

12 **station computer, have you reviewed the blog, the 11:16**

13 **Ocean Beach Police Corruption blog at any other 11:16**

14 **time? 11:16**

15 A Yes. 11:16

16 **Q And how many other times have you 11:16**

17 **reviewed that blog? 11:16**

18 A Maybe three or four times, other than 11:16

19 what we previously spoke about. 11:16

20 **Q So, in addition to the three or four 11:16**

21 **times, you have reviewed it three or four other 11:16**

22 **times? 11:16**

23 A Yeah. Maybe a half dozen to ten 11:17

24 times, tops. 11:17

25 **Q Where were you those other times that 11:17**

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1 **T. Bacon**

2 **you reviewed that blog? 11:17**

3 A Home. 11:17

4 **Q Every time was at home? 11:17**

5 A A couple times at home, maybe when I 11:17

6 was traveling. 11:17

7 **Q What computer did you use to view it 11:17**

8 **when you were traveling? 11:17**

9 A My own personal computer. 11:17

10 **Q The laptop that you have? 11:17**

11 A Yes. 11:17

12 **Q Is that the same computer that you 11:17**

13 **viewed it at home? 11:17**

14 A Yes. 11:17

15 **Q Do you still have that laptop? 11:17**

16 A No, I don't. 11:17

17 **Q Where that is laptop? 11:17**

18 A It got destroyed. 11:17

19 **Q When did it get destroyed? 11:17**

20 A Coming back from Iraq. 11:17

21 **Q How did it get destroyed? 11:17**

22 A Sand and dust, and when it was in my 11:17

23 carry-on, it got bounced around, and the hard 11:17

24 drive crapped out. 11:18

25 **Q Did you throw out the computer? 11:18**

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1 **T. Bacon**

2 A Yes. 11:18

3 **Q Did you recover any of the data from 11:18**

4 **the hard drive before throwing it out? 11:18**

5 A No. It was shot. 11:18

6 **Q Other than for that laptop, have you 11:18**

7 **reviewed the Ocean Beach Police Corruption blog on 11:18**

8 **any other computer that you own? 11:18**

9 A No. 11:18

10 **Q Do you have a new laptop? 11:18**

11 A No, I don't. 11:18

12 **Q Do you have a home computer, a PC? 11:18**

13 A No. 11:18

14 **Q So, you don't have any computer at 11:18**

15 **your home? 11:18**

16 A No, I use my -- little Palm. 11:18

17 **Q Your Palm device? 11:18**

18 A Um-hum. 11:18

19 **Q Have you reviewed the blog at all on 11:18**

20 **your Palm device? 11:18**

21 A No. 11:18

22 **Q Do you know anyone who has ever 11:18**

23 **posted on the Ocean Beach Police Corruption blog? 11:19**

24 A I do not. 11:19

25 **Q Did you ever hear that Pat Cherry, 11:19**

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1 T. Bacon

2 **Sr. posted on the blog? 11:19**

3 A No idea. 11:19

4 **Q Did you ever ask him? 11:19**

5 A No. 11:19

6 **Q Did you ever ask any other employees 11:19**

7 **of the Ocean Beach or Ocean Beach Police 11:19**

8 **Department whether they have posted on the blog? 11:19**

9 A No. 11:19

10 **Q Did you ever tell George Hesse that 11:19**

11 **you posted on the blog? 11:19**

12 A Nope. 11:19

13 MR. GOODSTADT: Give me one second. 11:19

14 I have exhibits in my office that I need. 11:19

15 THE VIDEOGRAPHER: The time is 11:19

16 11:19 a.m. We are going off the record. 11:19

17 (Recess taken.) 11:19

18 THE VIDEOGRAPHER: The time is 11:20

19 11:20 a.m. 11:20

20 We are back on the record. 11:20

21 BY MR. GOODSTADT: 11:20

22 **Q Did you ever refer to Kevin Lamm as 11:20**

23 **being gay? 11:20**

24 A No. 11:20

25 **Q Did you ever refer to him as being 11:20**

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1 T. Bacon

2 **queer? 11:21**

3 A No. 11:21

4 **Q Did you ever refer to him as being a 11:21**

5 **fag? 11:21**

6 A No. 11:21

7 **Q Did you ever hear anyone refer to 11:21**

8 **Kevin Lamm with any of those terms? 11:21**

9 A No. 11:21

10 MR. NOVIKOFF: Hear? Do you mean 11:21

11 hear, read? I mean, you gave a broad 11:21

12 definition of speak the last time. 11:21

13 MR. GOODSTADT: I want it as broad as 11:21

14 possible. 11:21

15 MR. NOVIKOFF: So, hear means -- 11:21

16 MR. GOODSTADT: Hear means read with 11:21

17 your ears, with your eyes. 11:21

18 MR. NOVIKOFF: Has he ever seen any 11:21

19 communication? 11:21

20 BY MR. GOODSTADT: 11:21

21 **Q That's a good way to put it. 11:21**

22 **Have you ever seen any communication 11:21**

23 **that refers to Kevin Lamm as gay, queer, fag or 11:21**

24 **the like? 11:21**

25 A Yes. 11:21

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1 T. Bacon

2 **Q How many times you have seen such 11:21**

3 **communications? 11:21**

4 A A couple. 11:21

5 **Q And where you have seen those 11:21**

6 **communications? 11:21**

7 A It was posted on the blog. 11:21

8 **Q Have you seen a reference to Kevin 11:21**

9 **Lamm being gay or queer or a fag or anything of 11:21**

10 **that ilk anywhere else? 11:21**

11 A No. 11:21

12 **Q Did you ever hear anybody verbally 11:21**

13 **call Kevin Lamm gay or fag or queer? 11:21**

14 A No. 11:22

15 **Q How many blog entries do you recall 11:22**

16 **where that was referenced? 11:22**

17 A More than one. I don't recall for 11:22

18 certain. 11:22

19 **Q Do you know who posted those blog 11:22**

20 **entries? 11:22**

21 A No idea. 11:22

22 **Q Did you ever see it written anywhere 11:22**

23 **in the station? Not on the computer, I mean 11:22**

24 **physically in the station. 11:22**

25 A No. 11:22

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1 T. Bacon

2 **Q Do you recall it ever being written 11:22**

3 **on a wall? 11:22**

4 A No, I do not. 11:22

5 **Q Do you recall any pictures ever being 11:22**

6 **posted that referenced that? 11:22**

7 A No. 11:22

8 **Q Have you ever seen anyone post on the 11:22**

9 **Ocean Beach Police Corruption blog? 11:22**

10 A No. 11:22

11 MR. NOVIKOFF: Wait, is the 11:22

12 question -- 11:22

13 **Q Did you ever see anyone actually 11:22**

14 **post? 11:22**

15 MR. NOVIKOFF: Okay. 11:22

16 **Q Type in a post? 11:22**

17 A No, that I have not. 11:22

18 **Q Other than for me and your counsel, 11:22**

19 **possibly, has anyone ever asked you whether you 11:22**

20 **have posted on the blog? 11:22**

21 A Yes. George had -- actually, George 11:22

22 had sent out a memo that was posted at the station 11:23

23 house for everyone to stay off the blog, period, 11:23

24 not even to review it. 11:23

25 **Q Do you recall when that was sent? 11:23**

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1 **T. Bacon**

2 A That was posted at the station, it 11:23

3 wasn't sent, two years ago, a year ago. 11:23

4 **Q So, it was either in '07 or '08? 11:23**

5 A Yes, somewhere in that time frame. 11:23

6 **Q And that was posted where in the 11:23**

7 **station? 11:23**

8 A On the memo board. There is a board 11:23

9 with all memos, you know, on the bulletin board. 11:23

10 **Q How long did the memo stay up for? 11:23**

11 A It may still be there, because 11:23

12 they -- it's on a big clipboard with a big ring 11:23

13 and any new memos, you know, go on top of the old 11:23

14 ones. 11:23

15 MR. GOODSTADT: I would like to mark 11:23

16 the record to request a copy of that memo, 11:23

17 because I don't believe that it has been 11:23

18 produced. 11:24

19 MR. NOVIKOFF: Take it under 11:24

20 advisement. You will follow-up with a 11:24

21 letter; right? 11:24

22 MR. GOODSTADT: Sure. 11:24

23 **Q Now, just to go back to the question 11:24**

24 **that I asked that led to your answer about the 11:24**

25 **memo, did anyone ever ask you whether you posted 11:24**

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1 **T. Bacon**

2 **on the blog, other than for me and counsel? 11:24**

3 A I think George may have asked if I 11:24

4 posted something on the blog at one point. 11:24

5 **Q When did he ask that? 11:24**

6 A Around the same time the memo came 11:24

7 out. 11:24

8 **Q So, at some point in '07 or '08? 11:24**

9 A Somewhere around there, yes. 11:24

10 **Q And it wasn't in '06? 11:24**

11 MR. NOVIKOFF: Objection. 11:24

12 A It may have been. I don't recall for 11:24

13 certain. 11:24

14 **Q And what, exactly, did he ask you? 11:24**

15 A If I posted anything on the blog and, 11:24

16 if I had, that it's to stop right then and there, 11:24

17 and he's instructing everybody in the department 11:24

18 the same. 11:24

19 **Q What was your response? 11:24**

20 A I didn't post anything on the blog. 11:24

21 **Q Was anyone else there during that 11:25**

22 **conversation? 11:25**

23 A Not that I recall. 11:25

24 **Q Where were you when he asked you that 11:25**

25 **question? 11:25**

Page 339

1 **T. Bacon**

2 A I think I was in the police station 11:25

3 coming on duty. 11:25

4 **Q I believe the last time you testified 11:25**

5 **that there were three computers in the police 11:25**

6 **station; is that correct? 11:25**

7 A Yes. 11:25

8 **Q Have there always been three since 11:25**

9 **2006? 11:25**

10 A There were three in there, maybe one 11:25

11 was out for repair. They had a problem at one 11:25

12 point, they had a lightning strike at the building 11:25

13 and it blew them all out. We were working with 11:25

14 one computer for a period, but I don't remember if 11:25

15 that was in that time frame or not. 11:25

16 **Q How many of the computers were for 11:25**

17 **use by any officer who wanted to use them? 11:25**

18 MR. NOVIKOFF: Objection. 11:25

19 A I think you could access all three of 11:25

20 them. 11:25

21 **Q Physically, where were they located? 11:25**

22 A One was at the dispatcher's desk, one 11:25

23 was at George's desk and one was further back at 11:26

24 Eddie's desk. 11:26

25 **Q Have you used all three of them? 11:26**

Page 340

1 **T. Bacon**

2 MR. NOVIKOFF: During the course of 11:26

3 the 20 years? 11:26

4 MR. GOODSTADT: Since 2006 until now. 11:26

5 A Since 2006? I may have. 11:26

6 **Q Which computer or computers did you 11:26**

7 **use to access the blog in the station? 11:26**

8 A The one at the dispatch desk. 11:26

9 **Q Did you ever use the one at George's 11:26**

10 **desk? 11:26**

11 A No. 11:26

12 **Q Did you ever use the one -- when you 11:26**

13 **say "Eddie," it's Eddie Paradiso? 11:26**

14 A Yes. 11:26

15 **Q Did you ever use the one at 11:26**

16 **Paradiso's desk to access the blog? 11:26**

17 A No. 11:26

18 **Q Was anybody else with you when you 11:26**

19 **accessed the blog at the police station? 11:26**

20 A I don't recall. 11:26

21 **Q Have you ever discussed the blog with 11:26**

22 **anyone, other than for the conversation you 11:26**

23 **testified to that you had with George Hesse? 11:26**

24 A Just that there was a lot of bullshit 11:26

25 posted on it. 11:26

Page 341

1 T. Bacon

2 **Q Who did you discuss that with? 11:26**

3 A I think that has come up in 11:26

4 conversation with probably just about everybody 11:26

5 working there. 11:26

6 **Q Has anyone working there ever 11:27**

7 **mentioned to you that they have posted on the 11:27**

8 **blog? 11:27**

9 A No. 11:27

10 **Q Has anyone working there mentioned to 11:27**

11 **you anyone that they have known who has posted on 11:27**

12 **the blog? 11:27**

13 A Say that again. Did they -- 11:27

14 **Q Has anyone working there ever tell 11:27**

15 **you, yeah, you know, my friend, Charlie, posted on 11:27**

16 **the blog; or, yeah, you know, another guy who used 11:27**

17 **to work here posted on the blog? 11:27**

18 A No. Nobody has ever said that they 11:27

19 had posted anything on the blog. All the 11:27

20 conversations with guys that were working were 11:27

21 that they were reading the blog, and found it 11:27

22 quite humorous or disgusting, depending upon what 11:27

23 it was that was written, you know. 11:27

24 **Q And have you had conversations with 11:27**

25 **everyone who works there about that? 11:27**

Page 342

1 T. Bacon

2 A Pretty much, yeah. 11:27

3 **Q Sitting here today, do you know 11:27**

4 **anybody who has ever posted on the Ocean Beach 11:27**

5 **Police Corruption blog? 11:27**

6 A No. 11:28

7 **Q Has anyone ever told that you they 11:28**

8 **have posted on the blog? 11:28**

9 A No. 11:28

10 MR. NOVIKOFF: Objection. Asked and 11:28

11 answered. 11:28

12 (Bacon Exhibit 11 marked for 11:28

13 identification as of this date.) 11:28

14 MR. NOVIKOFF: I'm just going to 11:28

15 represent that I haven't, obviously, looked 11:28

16 through each page to see if this is what 11:28

17 is -- if these have been, if the numbers are 11:28

18 in consecutive order. 11:29

19 I trust that they are, and I trust 11:29

20 that this represents what you will say it 11:29

21 purports to represent. 11:29

22 MR. GOODSTADT: Yes. 11:29

23 And I will indicate that for the 11:29

24 record, but I will represent that the Bates 11:29

25 stamped indicates it was produced from 11:29

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1 T. Bacon

2 George Hesse. 11:29

3 MR. NOVIKOFF: Twelve through 206. 11:29

4 My point is, I haven't looked through 11:29

5 every page to see if there is any page 11:29

6 missing. 11:29

7 MR. CONNOLLY: I can represent that 11:29

8 these were copied from the blog. 11:29

9 MR. GOODSTADT: Okay. 11:29

10 **Q I have placed in front of Mr. Bacon 11:29**

11 **what has now been marked as Bacon 11. It's a copy 11:29**

12 **of the blog entries. 11:29**

13 **On top it says "the Schwartz report" 11:29**

14 **and it bears Bates numbers Hesse 12 through Hesse 11:29**

15 **206. 11:29**

16 **Mr. Bacon, have you ever referred to 11:29**

17 **Kevin Lamm as Kevina? 11:29**

18 A Who? 11:29

19 **Q Kevina, K-E-V-I-N-A? 11:29**

20 A No. 11:29

21 **Q Did you ever hear him referred to by 11:29**

22 **that name? 11:30**

23 A No. 11:30

24 **Q If you look at Hesse 16 -- 11:30**

25 A Okay. 11:30

Page 344

1 T. Bacon

2 **Q -- the entry that is time stamped 11:30**

3 **10:55 p.m. 11:30**

4 **Do you see that? 11:30**

5 A Okay. 11:30

6 **Q On 4/6/06? 11:30**

7 MR. NOVIKOFF: 10:55 p.m. 11:30

8 MR. GOODSTADT: On 4/6/06. 11:30

9 MR. NOVIKOFF: And underneath that is 11:30

10 "ridiculous"? 11:30

11 MR. GOODSTADT: Yes. 11:30

12 MR. NOVIKOFF: Okay. 11:30

13 BY MR. GOODSTADT: 11:30

14 **Q Have you ever reviewed that blog? 11:30**

15 **Have you seen that before, that 11:30**

16 **entry? 11:30**

17 A I may have. I don't remember 11:30

18 anything specific about it. 11:30

19 **Q Do you know who "OB Res." is? 11:30**

20 A No. 11:30

21 **Q Do you know whether you were working 11:30**

22 **on April 6, 2006? 11:30**

23 A I have no idea. 11:30

24 **Q And do you see it says, "I heard that 11:30**

25 **there was some 'town employees' that got fired." 11:30**

Page 345

1 **T. Bacon**

2 **Do you see that?** 11:31

3 A Um-hum. 11:31

4 **Q Do you know what that "town 11:31**

5 **employees" refers to?** 11:31

6 A I do not. 11:31

7 **Q Can you look at the next page, Hesse 11:31**

8 **17?** 11:31

9 A Okay. 11:31

10 **Q If you look at the entry at 11:31**

11 **11:02 p.m. on 4/7.** 11:31

12 A Okay. 11:31

13 **Q It says "Guest P.O." 11:31**

14 **Do you see that?** 11:31

15 A Um-hum. 11:31

16 **Q Do you know who "Guest P.O." is? 11:31**

17 A No idea. 11:31

18 **Q Do you recall ever reviewing this 11:31**

19 **blog?** 11:31

20 A Not specifically. 11:31

21 **Q Is it your testimony that you didn't 11:31**

22 **post this blog?** 11:31

23 A Yes. It's my testimony that I didn't 11:31

24 **post that blog.** 11:31

25 **Q Your testimony is you don't know who 11:31**

Page 346

1 **T. Bacon**

2 **posted that blog?** 11:31

3 A That's my testimony. 11:31

4 **Q Do you know whether you were working 11:31**

5 **on April 7, 2006?** 11:31

6 A I could have been. 11:31

7 **Q You don't recall one way or the 11:31**

8 **other?** 11:31

9 A No, I don't. 11:31

10 **Q If you look at the next page, Hesse 11:32**

11 **18.** 11:32

12 A Okay. 11:32

13 **Q Do you see 4/8/2006, at 6:16 a.m.? 11:32**

14 **Do you see that entry? That doesn't 11:32**

15 **have a person's name.** 11:32

16 A Okay. 11:32

17 **Q Do you see that? Did you ever review 11:32**

18 **this blog?** 11:32

19 A I don't recall. 11:32

20 **Q Do you know whether you were working 11:32**

21 **April 8, 2006?** 11:32

22 A No. I don't. 11:32

23 **Q And where it says, "and let's not 11:32**

24 **forgot the two clowns from Islip, Ed and Tom." 11:32**

25 **Do you see that?** 11:32

Page 347

1 **T. Bacon**

2 A Um-hum. 11:32

3 **Q Do you know who "the two clowns from 11:32**

4 **Islip, Ed and Tom," refer to?** 11:32

5 A I would assume they are probably 11:32

6 **talking about Ed Carter and Tom Snyder?** 11:32

7 **Q Is it your testimony you didn't post 11:32**

8 **this blog?** 11:32

9 A Yes. 11:32

10 **Q If you look at Hesse 24 -- 11:33**

11 A Okay. 11:33

12 **Q -- look at the entry, 4/18/06 at 11:33**

13 **9:22 p.m.** 11:33

14 **Do you see that?** 11:33

15 A Um-hum. 11:33

16 **Q Titled "Sick of the rats." 11:33**

17 **Do you see that?** 11:33

18 A Yes. 11:33

19 **Q Do you know who that is, "Sick of the 11:33**

20 **rats"?** 11:33

21 A No idea. 11:33

22 **Q Did you ever review this blog? 11:33**

23 A I may have; but, once again, I don't 11:33

24 **specifically recall.** 11:33

25 **Q Do you know who posted this blog? 11:33**

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1 **T. Bacon**

2 A No, I don't. 11:33

3 **Q It's your testimony you didn't post 11:33**

4 **it?** 11:33

5 A Yes. 11:33

6 MR. NOVIKOFF: Objection, Andrew. 11:33

7 He's testified that he posted no blog 11:33

8 and you asked him that three times. So, are 11:33

9 you going to ask him, you know, point to 11:33

10 various blogs and ask him if he posted it, 11:33

11 in light of those answers? 11:34

12 MR. GOODSTADT: Certain ones. 11:34

13 MR. NOVIKOFF: All right. 11:34

14 BY MR. GOODSTADT: 11:34

15 **Q Do you know whether you were working 11:34**

16 **on April 18, 2006?** 11:34

17 A No. I don't recall. 11:34

18 **Q Turn to Hesse 63. 11:34**

19 A Okay. 11:34

20 **Q 6/17/06 at 5:28 a.m. 11:34**

21 **Do you see that?** 11:34

22 A Yes. 11:34

23 **Q Do you know if you were working on 11:34**

24 **June 17, 2006?** 11:34

25 A I have no idea. 11:34

Page 349

1 T. Bacon

2 **Q And you see the blog starts, "Hey 11:34**

3 **Kevina." 11:34**

4 **Do you see that? 11:34**

5 A Yes. 11:34

6 **Q Do you recall reviewing this blog? 11:34**

7 A No, I don't. 11:35

8 **Q Do you know who posted this? 11:35**

9 A No idea. 11:35

10 **Q Do you know how to spell the word 11:35**

11 **"pathetic"? 11:35**

12 A Hum? 11:35

13 **Q Do you know how to spell the word 11:35**

14 **"pathetic"? 11:35**

15 A I'm sure I do. 11:35

16 **Q How is it spelled? 11:35**

17 MR. NOVIKOFF: Objection. 11:35

18 A With a P. 11:35

19 **Q What comes after it? 11:35**

20 A An A. 11:35

21 **Q After that? 11:35**

22 A T H. 11:35

23 What has that got to do -- I don't 11:35

24 know if I were to do it on my word processor, I 11:35

25 would check word spell -- word check. 11:35

Page 350

1 T. Bacon

2 **Q Sitting here today, you don't know 11:35**

3 **how to spell it? 11:35**

4 A Not off the top of my head, no. 11:35

5 **Q Did you ever refer to Frank Fiorillo 11:36**

6 **as a "fag"? 11:36**

7 A No. 11:36

8 **Q Did you ever see him in any 11:36**

9 **communication referred to as a fag? 11:36**

10 A Not that I recall specifically. 11:36

11 **Q If you look at Hesse 202. 11:36**

12 A Okay. 11:36

13 **Q If look at the 5/27/08, 9:20 p.m. 11:36**

14 **entry. 11:36**

15 A Okay. 11:36

16 MR. CONNOLLY: Counsel, I'm sorry. 11:36

17 Where are we? 11:37

18 MR. GOODSTADT: Hesse 202. 11:37

19 MR. NOVIKOFF: Hesse 202. 9:20? 11:37

20 MR. GOODSTADT: 9:20 p.m. 11:37

21 MR. NOVIKOFF: 5/27/2008, another 11:37

22 clown caper. 11:37

23 **Q That is the one. 11:37**

24 **Do you see that entry? 11:37**

25 A Um-hum. Yes. Sorry. 11:37

Page 351

1 T. Bacon

2 **Q Do you know who "Another clown caper" 11:37**

3 **is? 11:37**

4 A No idea. 11:37

5 **Q Were you in Iraq in May of '08? 11:37**

6 A Yes. No -- I may have been traveling 11:37

7 home then. 11:37

8 **Q What were the dates of your tour? 11:37**

9 A The dates of my tour? From January 11:37

10 2nd through June, I want to say, the 13th. 11:37

11 **Q Of '08? 11:37**

12 A Yes. 11:37

13 **Q Do you know what a police benevolent 11:38**

14 **association is? 11:38**

15 A Yes. 11:38

16 **Q What is a police benevolent 11:38**

17 **association? 11:38**

18 A It's one that provides support for 11:38

19 its members. 11:38

20 **Q Do you know if Ocean Beach has a -- 11:38**

21 **we will call it PBA for short? 11:38**

22 A Actually, it's the Ocean Beach Police 11:38

23 Association. It's not a benevolent association to 11:38

24 my knowledge it. 11:38

25 **Q It's called the Ocean Beach Police 11:38**

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1 T. Bacon

2 **Association? 11:38**

3 A Yes. 11:38

4 **Q And what is the Ocean Beach Police 11:38**

5 **Association? 11:38**

6 A Back when I first started, they 11:38

7 solicited donations because they ran the 11:38

8 ambulance, and the money that they got in 11:38

9 donations paid for uniforms and equipment for the 11:38

10 ambulance. 11:38

11 **Q Is that an association that is still 11:38**

12 **in existence? 11:38**

13 A I believe it is. 11:39

14 **Q Do you know whether they still 11:39**

15 **solicit donations? 11:39**

16 A I don't think they solicit donations, 11:39

17 but I do believe they receive donations. 11:39

18 **Q Are you a member of the Ocean Beach 11:39**

19 **Police Association? 11:39**

20 A No, I am not. 11:39

21 **Q Do you know who are the members of 11:39**

22 **the Ocean Beach Police Association? 11:39**

23 A No, I do not. 11:39

24 **Q Have you ever been a member of the 11:39**

25 **Ocean Beach Police Association? 11:39**

Page 353

1 **T. Bacon**

2 A No. 11:39

3 **Q Do you know anyone who has ever been 11:39**

4 **a member of the Ocean Beach Police Association? 11:39**

5 A I'm assuming every member of the 11:39

6 department is. I mean, I have never attended a 11:39

7 meeting, paid dues, don't have an Ocean Beach 11:39

8 Police Association card. 11:39

9 MR. NOVIKOFF: Don't assume. 11:39

10 A Then I do not know. 11:39

11 **Q Have you ever been to a Ocean Beach 11:39**

12 **Police Association meeting? 11:39**

13 A No. 11:39

14 MR. NOVIKOFF: Objection. 11:39

15 **Q Have you ever seen any documents 11:39**

16 **related to the Ocean Beach Police Association? 11:39**

17 A As I said, when I first started 11:39

18 working there, if we went on an ambulance call, 11:39

19 they would send out a letter soliciting a donation 11:39

20 for the ambulance fund. 11:40

21 **Q And that's in 1990, when you say when 11:40**

22 **you first started working there? 11:40**

23 A 1990 through '93, somewhere in that 11:40

24 time frame. 11:40

25 **Q How about subsequent to '93 -- 11:40**

Page 354

1 **T. Bacon**

2 A No. 11:40

3 **Q -- have you ever seen any documents 11:40**

4 **related to the Ocean Beach Police Association? 11:40**

5 A I have not. 11:40

6 **Q Have you ever seen any documents 11:40**

7 **referring to the Ocean Beach Police Benevolent 11:40**

8 **Association? 11:40**

9 A I have not. 11:40

10 **Q Other than for uniforms for the 11:40**

11 **ambulance corp, do you know what else the Ocean 11:40**

12 **Beach Police Association donations were used for? 11:41**

13 A No. It wasn't uniforms for the 11:41

14 ambulance corp. It was for supplies for the 11:41

15 ambulance and uniforms for members of the police 11:41

16 department. 11:41

17 **Q Is that who pays for the uniforms of 11:41**

18 **the police department today? 11:41**

19 A I believe so, but I am not certain. 11:41

20 **Q Do you know whether that money from 11:41**

21 **the Ocean Beach Police Association has ever been 11:41**

22 **used for any personal reasons? 11:41**

23 A Not to my knowledge. 11:41

24 **Q Who controls the money? 11:41**

25 MR. NOVIKOFF: Objection. 11:41

Page 355

1 **T. Bacon**

2 A I'm not sure. 11:41

3 **Q Does the police, Ocean Beach Police 11:41**

4 **Association have any board, any officers? 11:41**

5 A I don't know. 11:41

6 MR. NOVIKOFF: Objection. 11:41

7 **Q Have you ever been to any department 11:42**

8 **holiday parties? 11:42**

9 A Yes. 11:42

10 **Q What years? 11:42**

11 A I don't recall specifically. 11:42

12 **Q Did you ever have to pay for 11:42**

13 **attending the parties? 11:42**

14 A Paid for our own drinks, yes. 11:42

15 **Q How about the food? 11:42**

16 A We all turned around when we got 11:42

17 there. They had appetizers. We would all throw 11:42

18 20 or 40 bucks up on the bar every time I went to 11:42

19 the Christmas party. 11:42

20 **Q For drinks or for food? 11:42**

21 A As far as I knew, it was for both, 11:42

22 because we ordered appetizers and drinks. 11:42

23 **Q And each year you attended you had to 11:42**

24 **pay? 11:42**

25 A I always threw something up on the 11:42

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1 **T. Bacon**

2 bar, yes. 11:43

3 **Q Did anyone tell you how much you 11:43**

4 **owed? 11:43**

5 A No. 11:43

6 **Q So, how did you know how much you had 11:43**

7 **to pay? 11:43**

8 A I'm sure I paid more than I had to, 11:43

9 because I would stay for one or two drinks and I 11:43

10 leave. Usually throw anywhere from 40 to \$50 up 11:43

11 on the bar, and I think that was pretty much what 11:43

12 the other guys did. 11:43

13 **Q How do you know that if you left 11:43**

14 **early? 11:43**

15 MR. NOVIKOFF: Objection. 11:43

16 A Well, I watched everybody throw a 11:43

17 couple of 20s and a couple of tens up on the bar. 11:43

18 **Q Do you know whether the police 11:43**

19 **association money was ever used to pay for any of 11:43**

20 **those parties? 11:43**

21 A I have no idea. 11:43

22 (Bacon Exhibit 12 marked for 11:44

23 identification as of this date.) 11:44

24 **Q I have placed in front of you what 11:44**

25 **has now been marked as Bacon 12. It's a two-page 11:44**

Page 357

1 T. Bacon
2 exhibit bearing Bates number P 926 and P 927. 11:44
3 Mr. Bacon, have you ever seen the 11:44
4 document marked as Bacon 12? 11:44
5 A No. 11:44
6 Q I refer to you the -- the top of the 11:44
7 document, the letterhead. 11:44
8 It says Ocean Beach Police Benevolent 11:44
9 Association. 11:44
10 Do you see that? 11:44
11 A Hum. 11:44
12 Q Sitting here today, is that the first 11:44
13 time you have ever seen that entity? 11:44
14 A Yes. 11:45
15 Q Where is P.O. Box 25 in Ocean Beach, 11:45
16 New York, do you know? 11:45
17 A I'm assuming -- I can't assume, so. 11:45
18 Q You don't know? 11:45
19 A No. 11:45
20 Q Do you know what that phone number is 11:45
21 there? 11:45
22 A No. 11:45
23 Q You don't? 11:45
24 A No, I do not. 11:45
25 Q Does the barracks have a satellite 11:45

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1 T. Bacon
2 dish for the TV? 11:45
3 A It does not; not now. It may have at 11:45
4 one point. 11:45
5 Q You don't know one way or the other 11:45
6 whether it did? 11:45
7 A No. I don't. 11:45
8 Q Did there come a point in time that 11:45
9 you learned that somebody had written a letter 11:45
10 about Tom Snyder's, the timing of his signing in? 11:46
11 A No. No, I have not. 11:46
12 Q Do you know whether there was ever 11:46
13 any issue with respect to the time that Tom Snyder 11:46
14 was signing in? 11:46
15 MR. NOVIKOFF: Where? 11:46
16 MR. GOODSTADT: At any point in time. 11:46
17 MR. NOVIKOFF: No. Where? 11:46
18 MR. GOODSTADT: At Ocean Beach Police 11:46
19 Department when he was signing in for his 11:46
20 tour. 11:46
21 MR. NOVIKOFF: Objection. 11:46
22 A No. I know him and Carter were late 11:46
23 all the time. 11:46
24 Q How do you know that? 11:46
25 A Whenever I worked, if I was working 11:46

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1 T. Bacon
2 eight at night to four in the morning, they would 11:46
3 get in late because they didn't get off of their 11:46
4 tour from Islip Town Parks until midnight, and 11:46
5 they need to report there at midnight. 11:46
6 When I worked the midnight shift, we 11:46
7 sat around waiting the extra half hour and didn't 11:47
8 go in until about 12:30, when they arrived. 11:47
9 Q So, you waited a half for Snyder and 11:47
10 Carter to go in? 11:47
11 A Yes. 11:47
12 Q Did you ever hear of anybody writing 11:47
13 a letter with respect to that issue, them arriving 11:47
14 late? 11:47
15 A No, I have not. 11:47
16 Q Did you ever arrive late for your 11:47
17 tour? 11:47
18 A Have I? 11:47
19 Q Yes. 11:47
20 A Yes. 11:47
21 Q How many times? 11:47
22 A Maybe once, maybe twice in almost 20 11:47
23 years. 11:47
24 Q Did you get paid for the time that 11:47
25 you didn't work but you were supposed to be 11:47

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1 T. Bacon
2 scheduled to be paid -- scheduled to work? 11:47
3 MR. NOVIKOFF: Objection. 11:47
4 A I don't recall. 11:47
5 Q So, is it your testimony that when we 11:47
6 review the video surveillance from the Marine 11:47
7 Bureau, up at the check point, it will show that 11:47
8 you arrived on time for your shift? 11:47
9 MR. NOVIKOFF: Objection. 11:47
10 Is there an a video from the Marine 11:47
11 Bureau that has been produced for you that I 11:47
12 don't know? I mean, is there a video at 11:47
13 all, or is that speculation by counsel? Is 11:47
14 there a video at all? 11:48
15 MR. GOODSTADT: We have a subpoena 11:48
16 out there, you know about that. 11:48
17 MR. NOVIKOFF: No, I know about the 11:48
18 subpoena. I didn't know if something has 11:48
19 been produced. 11:48
20 THE WITNESS: If there is a video, 11:48
21 it's going to show me showing up at 11:30. 11:48
22 And if there is, in fact, a video, it will 11:48
23 show Mr. Snyder and Mr. Carter showing up at 11:48
24 about 12:30. So, please, I would love to 11:48
25 see the video. 11:48

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1 T. Bacon
2 (Bacon Exhibit 13 marked for 11:48
3 identification as of this date.) 11:48
4 BY MR. GOODSTADT: 11:48
5 Q I have placed in front of Mr. Bacon 11:48
6 what has been mark as Bacon 13. It is a two-page 11:48
7 exhibit bearing Bates P 916 and P 336. 11:49
8 Mr. Bacon, have you ever seen either 11:49
9 of the pages that have been marked as part of 11:49
10 Bacon 13? 11:49
11 A No, I have not. 11:49
12 Q Is this the first time you became 11:49
13 aware of this letter? 11:49
14 A Yes. It's the first time I have seen 11:49
15 it. 11:49
16 Q Do you know who Mitch Burns is? 11:49
17 A No. I don't. I know of a Mitch in 11:49
18 Ocean Beach, but I don't know a Mitch Burns. It 11:49
19 may be the same individual. 11:49
20 Q Is Mitch a resident of Ocean Beach? 11:49
21 A I believe so. 11:49
22 Q Where is his house or apartment? 11:49
23 A I have no idea. 11:49
24 Q Have you ever been to Mitch's house 11:49
25 or apartment? 11:49

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1 T. Bacon
2 A No. 11:49
3 Q What does Mitch look like, that you 11:50
4 know of? 11:50
5 A Maybe 5'10", skinny, olive skin, 11:50
6 brown hair, kind of eccentric, always has 11:50
7 good-looking girls hanging on him. 11:50
8 Q Did you ever hear that the Mitch that 11:50
9 you know of was dealing drugs? 11:50
10 A Yes. 11:50
11 Q And how did you hear of that? 11:50
12 A From the plaintiffs. 11:50
13 Q And when did you hear that from the 11:50
14 plaintiffs? 11:50
15 A They always stated that on a routine 11:50
16 basis, that it was "Mitch, the drug dealer." 11:50
17 Q Do you know what their basis was for 11:50
18 making those statements? 11:50
19 A Probably supposition on their part. 11:50
20 Q You don't know what the basis was? 11:50
21 MR. NOVIKOFF: You asked him does he 11:50
22 know the basis and he just told you what his 11:50
23 basis was. 11:50
24 MR. GOODSTADT: He told me probably 11:51
25 what it was. 11:51

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1 T. Bacon
2 MR. NOVIKOFF: Objection to form. 11:51
3 A It certainly isn't based on any 11:51
4 probable cause, I'm sure. Because if he was, then 11:51
5 they would have arrested him. 11:51
6 Q So, the Mitch that you are testifying 11:51
7 to you have heard the plaintiffs refer to as 11:51
8 "Mitch, the drug dealer"? 11:51
9 A Yes. 11:51
10 Q Which plaintiffs referred to him as 11:51
11 that? 11:51
12 A Snyder, Lamm, Carter and Fiorillo. 11:51
13 Q Did you ever hear Nofi refer to him 11:51
14 as "Mitch, the drug dealer"? 11:51
15 A No. 11:51
16 Q Did you ever ask these guys why they 11:51
17 call him "Mitch, the drug dealer"? 11:51
18 A No. 11:51
19 Q Were you friends with Mitch? 11:51
20 A No. 11:51
21 Q Do you know whether Hesse is friends 11:51
22 with him? 11:51
23 MR. NOVIKOFF: Is the question does 11:51
24 he know if Hesse is friends with him at this 11:51
25 time? 11:51

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1 T. Bacon
2 MR. GOODSTADT: Yes. 11:51
3 A Not that I know of. 11:51
4 Q Do you know whether or not the 11:51
5 Bosettis are friends with him? 11:51
6 MR. NOVIKOFF: Objection. 11:51
7 A Not that I know of. 11:51
8 Q Other than for the four plaintiffs 11:51
9 that you mentioned, did you ever hear anyone else 11:51
10 mention that Mitch was dealing drugs? 11:52
11 A Nope. 11:52
12 (Witness and counsel conferring.) 11:52
13 MR. NOVIKOFF: You don't have to go 11:52
14 off. 11:52
15 BY MR. GOODSTADT: 11:52
16 Q Do you know whether he owns property 11:52
17 in Ocean Beach? 11:52
18 MR. NOVIKOFF: Mitch? 11:52
19 MR. GOODSTADT: Mitch. 11:52
20 A I have no idea. 11:52
21 Q Did you ever assign a dockmaster to 11:52
22 cover for you at the police station? 11:52
23 A No. 11:52
24 Q Were you ever aware of any police 11:52
25 officers assigning a dockmaster to cover for them? 11:52

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1 **T. Bacon**

2 A Yes. 11:53

3 **Q Who, which police officers? 11:53**

4 A I can't tell you specifically who. I 11:53

5 can tell you the circumstances. 11:53

6 **Q But you don't know who? 11:53**

7 A No. 11:53

8 **Q Is it appropriate to have a 11:53**

9 **dockmaster assigned to the police station? 11:53**

10 MR. NOVIKOFF: Objection. 11:53

11 A Under the circumstances, yes. 11:53

12 **Q How many times did it happen, that 11:53**

13 **are you aware of? 11:53**

14 A A handful. 11:53

15 **Q And what were the circumstances? 11:53**

16 A The circumstances were there was a 11:53

17 big fight, a 10-16, or somebody called a 10-1, and 11:53

18 they needed every available police officer. So, 11:53

19 you couldn't leave the desk unmanned. It was 11:53

20 almost routine practice, when that would happen, 11:53

21 whoever was working the desk would instruct the 11:53

22 dockmaster to take the radio while he ran out, you 11:53

23 know, ran out the door to assist the other 11:53

24 officers. 11:53

25 **Q 10-16 is a fight? 11:53**

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1 **T. Bacon**

2 A 10-16 is a fight, yes. 11:53

3 **Q What is a 10-1? 11:53**

4 A Officer down, officer needs 11:53

5 assistance. 11:53

6 **Q That is a serious radio code, right, 11:53**

7 **10-1? 11:53**

8 A Yes. 11:53

9 **Q And, in fact, it would cause somebody 11:53**

10 **sitting behind the desk to have a dockmaster take 11:53**

11 **their position and get out of there as quickly as 11:54**

12 **possible; correct? 11:54**

13 MR. NOVIKOFF: Objection. 11:54

14 A To back up the officer in need, yes. 11:54

15 **Q Are there any more serious codes than 11:54**

16 **a 10-1 in your opinion? 11:54**

17 MR. NOVIKOFF: Objection. 11:54

18 A I think a 10-1 is probably the most 11:54

19 serious. But also, it depends, you have a 10-9, 11:54

20 and it turns out to be a cardiac arrest and the 11:54

21 officer is by himself, and you have an officer on 11:54

22 the desk, I would turn around and I would call the 11:54

23 dockmaster to take the desk so I could assist the 11:54

24 officer, you know, doing CPR, treating the aided. 11:54

25 **Q 10-9 is an aid case? 11:54**

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1 **T. Bacon**

2 A It's a serious aided case, a 11:54

3 resuscitator case. 11:54

4 **Q Where did you learn the 10 codes 11:54**

5 **from? 11:54**

6 A Suffolk County Police Academy. 11:54

7 **Q Do you think it's important to know 11:54**

8 **the ten codes? 11:54**

9 MR. NOVIKOFF: Objection. 11:54

10 A Yes. 11:54

11 **Q Do you think it would be a safety 11:55**

12 **risk if some of the officers didn't know the 10 11:55**

13 **codes? 11:55**

14 A It could be. 11:55

15 **Q Were you ever instructed not to issue 11:55**

16 **summonses to certain businesses? 11:55**

17 A No. 11:55

18 **Q Were you ever instructed not to issue 11:55**

19 **summonses to certain people? 11:55**

20 A No. 11:55

21 **Q The last time you testified about 11:55**

22 **some conversations that you had with Alison over 11:55**

23 **at civil service. 11:55**

24 **Do you recall testifying to that? 11:55**

25 A Yes. 11:55

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1 **T. Bacon**

2 **Q Have you ever met her face to face? 11:55**

3 A No, I have not. 11:55

4 **Q Do you know what she looks like? 11:55**

5 A Couldn't tell you. She could be 11:55

6 Alison for all I know. 11:55

7 **Q Did you ever hear George Hesse talk 11:55**

8 **about her, mention her name? 11:55**

9 A Yes. 11:56

10 **Q How many times? 11:56**

11 A A handful. 11:56

12 **Q And what did he say about her? 11:56**

13 A Regarding the civil service status, 11:56

14 if there were questions they were to be directed 11:56

15 to her. 11:56

16 **Q And do you know why they were being 11:56**

17 **directed to her? 11:56**

18 A As we said the last time we were 11:56

19 here, going for the -- you know, the process and 11:56

20 whatnot, if there were questions, that they had to 11:56

21 be directed to her. 11:56

22 **Q But do you know why they would have 11:56**

23 **to be directed to her? 11:56**

24 A Because she is from civil service and 11:56

25 she is the one who is the expert in civil service 11:56

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<p>1 T. Bacon</p> <p>2 policies. 11:56</p> <p>3 Q Okay. 11:56</p> <p>4 A While you are -- is it all right if I 11:56</p> <p>5 take a break and use the mens room? 11:56</p> <p>6 THE VIDEOGRAPHER: The time is 11:56</p> <p>7 11:57 a.m. 11:56</p> <p>8 We are going off the record. 11:56</p> <p>9 (Recess taken.) 12:07</p> <p>10 THE VIDEOGRAPHER: The time is 12:08</p> <p>11 12:08 p.m. 12:08</p> <p>12 We are back on the record. 12:08</p> <p>13 (Bacon Exhibit 14 marked for 12:08</p> <p>14 identification as of this date.) 12:08</p> <p>15 BY MR. GOODSTADT: 12:09</p> <p>16 Q Mr. Bacon, at the April 2nd, 2006, 12:09</p> <p>17 department meeting, I believe you testified you 12:09</p> <p>18 had some paperwork you had to fill out; is that 12:09</p> <p>19 correct? 12:09</p> <p>20 A Yes. 12:09</p> <p>21 Q What type of paperwork did you have 12:09</p> <p>22 to fill out? 12:09</p> <p>23 A I don't recall specifically. 12:09</p> <p>24 Q Did you fill out paperwork every 12:09</p> <p>25 year? 12:09</p>	<p>1 T. Bacon</p> <p>2 A 420. 12:10</p> <p>3 Q What is that? 12:10</p> <p>4 A My shield. 12:10</p> <p>5 Q And then slash -- 12:10</p> <p>6 A 8900. That is my command. 12:10</p> <p>7 Q What does that mean? 12:10</p> <p>8 A It's your official police signature. 12:10</p> <p>9 When you sign something as a police officer, you 12:10</p> <p>10 sign your name, your rank, your shield and your 12:10</p> <p>11 command. 12:10</p> <p>12 Q What does it mean by "your command"? 12:10</p> <p>13 A Who you work for. 12:10</p> <p>14 Q And 8900, that is -- 12:10</p> <p>15 A That is Ocean Beach's command number, 12:10</p> <p>16 correct. 12:11</p> <p>17 Q Who issues the number for Ocean 12:11</p> <p>18 Beach? 12:11</p> <p>19 A I'm not certain. 12:11</p> <p>20 Q Do you know it it's a County thing or 12:11</p> <p>21 State thing? 12:11</p> <p>22 A It may be a County thing, it may be a 12:11</p> <p>23 State thing. I'm not certain. 12:11</p> <p>24 Q Have you had to sign this agreement 12:11</p> <p>25 for every year you worked there? 12:11</p>
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<p>1 T. Bacon</p> <p>2 A I believe we did. 12:09</p> <p>3 Q Was there anything different about 12:09</p> <p>4 the paperwork in '06 than other years? 12:09</p> <p>5 A Not that I recall. 12:09</p> <p>6 Q I placed in front of 12:09</p> <p>7 Mr. Bacon Exhibit 14 -- 12:09</p> <p>8 MR. NOVIKOFF: What was 13? Okay, I 12:09</p> <p>9 got it. I missed a number, thank you. 12:09</p> <p>10 Bacon 14. 12:10</p> <p>11 BY MR. GOODSTADT: 12:10</p> <p>12 Q I placed in front of Mr. Bacon what 12:10</p> <p>13 has been marked as Bacon 14. It is a one-page 12:10</p> <p>14 exhibit bearing Bates number 7354. 12:10</p> <p>15 Mr. Bacon, do you recognize this 12:10</p> <p>16 document that's been marked as Bacon 14? 12:10</p> <p>17 A I do. 12:10</p> <p>18 Q Is that your signature on the second 12:10</p> <p>19 line up from the bottom? 12:10</p> <p>20 A Yes, it is. 12:10</p> <p>21 Q And what did you -- after that it 12:10</p> <p>22 says your signature, "P.O." What does that stand 12:10</p> <p>23 for? 12:10</p> <p>24 A Police officer. 12:10</p> <p>25 Q And then it says number? 12:10</p>	<p>1 T. Bacon</p> <p>2 A No. I did sign something like that 12:11</p> <p>3 when I first got hired. 12:11</p> <p>4 Q Okay. 12:11</p> <p>5 A And then this was one that was done 12:11</p> <p>6 on April 2nd of '06. 12:11</p> <p>7 Q Do you know why it was being done on 12:11</p> <p>8 April 2nd of '06? 12:11</p> <p>9 A I believe everybody was doing that. 12:11</p> <p>10 He just wanted to keep track of firearms that 12:11</p> <p>11 people were purchasing. 12:11</p> <p>12 Q Did you ever have any communications 12:11</p> <p>13 with either of the Bosettis about the fact that 12:11</p> <p>14 the plaintiffs had filed a lawsuit in this case? 12:11</p> <p>15 MR. NOVIKOFF: Objection. Asked and 12:11</p> <p>16 answered. 12:11</p> <p>17 A I remember, as I said, when we were 12:11</p> <p>18 here back in February that -- that was what we 12:11</p> <p>19 heard through the rumor mill. I don't remember 12:11</p> <p>20 specifically who, but that there was a lawsuit 12:11</p> <p>21 filed, it involved them, and that was the extent 12:11</p> <p>22 of it. We don't know the -- did not know what the 12:12</p> <p>23 specifics were. 12:12</p> <p>24 Q I don't believe that you testified 12:12</p> <p>25 who was the rumor mill. I thought you testified 12:12</p>

28 (Pages 369 to 372)

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<p>1 T. Bacon</p> <p>2 that it was guys in the department. 12:12</p> <p>3 MR. NOVIKOFF: No, no. Hold on. Are 12:12</p> <p>4 you done with your statement/question? 12:12</p> <p>5 MR. GOODSTADT: No. I just wanted to 12:12</p> <p>6 explain why I am asking this question. 12:12</p> <p>7 Q Now, I am asking you whether you 12:12</p> <p>8 recall, after speaking with either of the 12:12</p> <p>9 Bosettis, about the fact that the plaintiffs had 12:12</p> <p>10 sued in this case. 12:12</p> <p>11 MR. NOVIKOFF: Objection. Asked and 12:12</p> <p>12 answered. 12:12</p> <p>13 His testimony is what his testimony 12:12</p> <p>14 is in February. You can answer the 12:12</p> <p>15 question. 12:12</p> <p>16 A Right. The rumor mill or the guys. 12:12</p> <p>17 Bosettis specifically? No. 12:12</p> <p>18 Q So, you don't recall specifically 12:12</p> <p>19 speaking with Gary Bosetti about anything do with 12:12</p> <p>20 the facts or allegations in this complaint? 12:12</p> <p>21 A Not that I recall. 12:12</p> <p>22 Q And you don't recall speaking with 12:12</p> <p>23 Rich Bosetti about anything to do with the fact 12:12</p> <p>24 that a lawsuit has been filed or any other 12:12</p> <p>25 allegations in the complaint? 12:12</p>	<p>1 T. Bacon</p> <p>2 plaintiffs drinking alcohol while on duty? 12:13</p> <p>3 A Yes. 12:13</p> <p>4 Q And whom did you, personally, 12:13</p> <p>5 witness? 12:13</p> <p>6 A It was Ed Carter. 12:13</p> <p>7 Q And on how many occasions did you 12:13</p> <p>8 witness Ed Carter drink while on duty? 12:13</p> <p>9 A That was the one that I recall. 12:13</p> <p>10 Q And when was that? 12:13</p> <p>11 A As I previous stated, previously 12:13</p> <p>12 stated, it was the end of a tour, four or 12:13</p> <p>13 5 o'clock in the morning, somebody went and got a 12:13</p> <p>14 pizza at one of the pizza parlors. 12:14</p> <p>15 He went and got a pitcher, I thought 12:14</p> <p>16 was Coke, from CJ's, brought it over. I poured a 12:14</p> <p>17 glass. It turned out to be a pitcher of rum and 12:14</p> <p>18 Coke, and I dumped it, and I believe pretty much 12:14</p> <p>19 everybody else did, and he drank the remainder of 12:14</p> <p>20 pitcher. 12:14</p> <p>21 Q And what year was this, if you can 12:14</p> <p>22 recall? 12:14</p> <p>23 A I don't -- I don't remember. 12:14</p> <p>24 Q Okay. Now, are any of plaintiffs in 12:14</p> <p>25 the room today? 12:14</p>
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<p>1 T. Bacon</p> <p>2 A No. 12:13</p> <p>3 Q Is there anything that you can think 12:13</p> <p>4 of that would refresh your recollection? 12:13</p> <p>5 A I don't think so. If you have 12:13</p> <p>6 something then, please -- 12:13</p> <p>7 MR. NOVIKOFF: Please what? 12:13</p> <p>8 THE WITNESS: Provide it to refresh 12:13</p> <p>9 my recollection. 12:13</p> <p>10 MR. NOVIKOFF: There you go. 12:13</p> <p>11 THE WITNESS: I have nothing further 12:13</p> <p>12 at this time. 12:13</p> <p>13 MR. NOVIKOFF: Okay. 12:13</p> <p>14 EXAMINATION 12:13</p> <p>15 BY MR. NOVIKOFF: 12:13</p> <p>16 Q Good morning, Mr. Bacon. How are 12:13</p> <p>17 you? 12:13</p> <p>18 A Good morning. 12:13</p> <p>19 How are you? 12:13</p> <p>20 Q Fine. Thank you. 12:13</p> <p>21 Back in February, I believe the 12:13</p> <p>22 subject came up of drinking in the Village of 12:13</p> <p>23 Ocean Beach, certain police officers drinking. 12:13</p> <p>24 A Yes. 12:13</p> <p>25 Q Did you ever witness any of the 12:13</p>	<p>1 T. Bacon</p> <p>2 A Yes, Mr. Snyder is. 12:14</p> <p>3 Q Is Mr. Snyder the person sitting to 12:14</p> <p>4 trite of Mr. Goodstadt? 12:14</p> <p>5 A Yes. 12:14</p> <p>6 Q Okay. Now, did there ever come a 12:14</p> <p>7 time that you saw Mr. Snyder, while on duty, 12:14</p> <p>8 engaged in a sexual act? 12:14</p> <p>9 A Snyder? No. 12:14</p> <p>10 Q Did you ever recall seeing any of the 12:14</p> <p>11 plaintiffs, while on duty, engaged in a sexual 12:14</p> <p>12 act? 12:15</p> <p>13 A Yes. 12:15</p> <p>14 Q Without telling me the sexual act 12:15</p> <p>15 yet, who was that plaintiff? 12:15</p> <p>16 A Officer Frank Fiorillo. 12:15</p> <p>17 Q Okay. And what sexual act did you 12:15</p> <p>18 see Mr. Fiorillo engaging in? 12:15</p> <p>19 A He was getting a blow job. 12:15</p> <p>20 Q From a woman or a man? 12:15</p> <p>21 A I'm not sure. 12:15</p> <p>22 Q Okay. Where was he engaging in this 12:15</p> <p>23 sexual act? 12:15</p> <p>24 A Behind the school, over by the 12:15</p> <p>25 playground. 12:15</p>

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1 T. Bacon

2 Q And how -- what is the basis for your 12:15

3 opinion that Mr. Fiorillo was on duty at this 12:15

4 point in time that he was receiving this sexual 12:15

5 act? 12:15

6 A He was in uniform and he was in a Gem 12:15

7 cart. 12:15

8 Q What is a Gem cart? 12:15

9 A It's an electric powered, bigger than 12:15

10 a golf cart, you know, smaller an automobile. 12:15

11 Q So, he was engaged in this sexual 12:15

12 act, with either a man or a woman, while in his 12:15

13 police uniform and in a police vehicle? 12:16

14 A Yes. 12:16

15 Q Okay. And where were you when you 12:16

16 witnessed this? 12:16

17 A I was on my bicycle. 12:16

18 Plaintiffs attorney was asking if I 12:16

19 was sleeping in the park. 12:16

20 Q Um-hum. 12:16

21 A And I was not -- that is how I 12:16

22 observed him. I was riding my bike, and was 12:16

23 riding around, and he pulled up, and as I pulled 12:16

24 out, I saw a head with a ponytail bobbing in his 12:16

25 lap. 12:16

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1 T. Bacon

2 Q And you have no doubt in your mind, 12:16

3 as you are sitting here today, that the person 12:16

4 that was receiving this sexual act was 12:16

5 Mr. Fiorillo? 12:16

6 A None whatsoever. 12:16

7 Q And because I am sure Mr. Goodstadt 12:16

8 will ask you this, I will ask it. 12:16

9 What, if anything, did you do upon 12:16

10 witnessing this sexual act? 12:16

11 A I kept on my way, usual patrol. 12:16

12 Q And is there a reason why you didn't 12:16

13 tell either Chief Paradiso or George Hesse about 12:16

14 this? 12:17

15 A No, sir. It wasn't my business. It 12:17

16 didn't affect my performance, my duties. I 12:17

17 continued to patrol. 12:17

18 Q Now, did you ever witness any of the 12:17

19 plaintiffs becoming physically abusive with a 12:17

20 member of the public while in uniform in Ocean 12:17

21 Beach? 12:17

22 A Yes. 12:17

23 Q And which plaintiff or plaintiffs did 12:17

24 you, personally, witness engaging in or physically 12:17

25 abusing, in your opinion, a member of the public 12:17

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1 T. Bacon

2 while in uniform? 12:17

3 A That was Kevin Lamm. 12:17

4 Q Okay. And can you describe the 12:17

5 circumstances for me forming the basis for your 12:17

6 opinion that Kevin Lamm, on one occasion, at least 12:17

7 on one occasion, was being physically abusive with 12:17

8 a member of the public while in uniform? 12:17

9 A Yes. George Hesse was writing a 12:17

10 summons to a female at the ferry line. Her 12:17

11 boyfriend was highly intoxicated. He tried to 12:18

12 step in and intervene. There was a bunch of us at 12:18

13 the ferry line. 12:18

14 I tried keeping him back and talking 12:18

15 to him. He went to take a swing at George. I 12:18

16 took him down to the ground. Kevin Lamm jumped on 12:18

17 him, didn't attempt to put handcuffs on him, put 12:18

18 him in a headlock and just started pummeling him. 12:18

19 It took myself and two or three 12:18

20 officers to pull Kevin off of the individual. 12:18

21 Q To your knowledge, did that 12:18

22 individual that was being beaten up by Mr. Lamm 12:18

23 file a complaint? 12:18

24 A I have no idea. 12:18

25 Q Do you know what, if anything, Mr. 12:18

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1 T. Bacon

2 Hesse said to Mr. Lamm concerning that incident? 12:18

3 A I'm assuming -- 12:18

4 Q Don't assume. 12:18

5 A No, no. 12:18

6 Q Did Mr. Hesse ever advise you that he 12:18

7 said something to Mr. Lamm concerning this 12:18

8 incident? 12:19

9 A I believe -- yes, he did say he was 12:19

10 going to counsel him. 12:19

11 Q And did you inquire of Mr. Hesse as 12:19

12 to what he meant by "counsel"? 12:19

13 A No. 12:19

14 Q Did you ever learn as to what, if 12:19

15 anything, Mr. Hesse said to Mr. Lamm concerning 12:19

16 this incident? 12:19

17 A No. 12:19

18 Q Were there any other instances 12:19

19 involving Mr. Lamm which would lead you to believe 12:19

20 that he had an anger issue? 12:19

21 MR. GOODSTADT: Objection. 12:19

22 A Yes. 12:19

23 MR. GOODSTADT: Objection to the 12:19

24 form. 12:19

25 MR. NOVIKOFF: What is the basis? 12:19

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<p>1 T. Bacon</p> <p>2 MR. GOODSTADT: What do you mean by 12:19</p> <p>3 "an anger issue"? 12:19</p> <p>4 BY MR. NOVIKOFF: 12:19</p> <p>5 Q Sir, do you have understanding as to 12:19</p> <p>6 what I mean by "an anger issue"? 12:19</p> <p>7 A Yes. 12:19</p> <p>8 Q What is your understanding as to what 12:19</p> <p>9 I mean when I use of the phrase "anger issue"? 12:19</p> <p>10 A That he harbored hostilities toward 12:19</p> <p>11 the public at large. 12:19</p> <p>12 Q Given your understanding of that -- 12:19</p> <p>13 given what you believe I meant by "anger issue," 12:19</p> <p>14 and I will adopt that definition for purposes of 12:19</p> <p>15 this question, I will repeat the question. 12:19</p> <p>16 Were there any other incidents that 12:19</p> <p>17 you witnessed with Mr. Lamm, where you believe 12:19</p> <p>18 that he had an anger issue? 12:19</p> <p>19 A Yes. 12:20</p> <p>20 Q Can you please describe for the jury 12:20</p> <p>21 and for the judge, who may be watching this tape, 12:20</p> <p>22 the basis for your opinion? 12:20</p> <p>23 A Yes. Routinely he ended up on the 12:20</p> <p>24 east end, down by Houser's or by the phone 12:20</p> <p>25 company, and he used to go on his rants, his 12:20</p>	<p>1 T. Bacon</p> <p>2 recall Mr. Lamm saying? 12:21</p> <p>3 A Just that Ocean Beach was overrun 12:21</p> <p>4 with fags and Jews. 12:21</p> <p>5 Q And did, in your presence, any of the 12:21</p> <p>6 other plaintiffs make similar comments? 12:21</p> <p>7 A Yes. 12:21</p> <p>8 Q Concerning the Jews? 12:21</p> <p>9 A Yes. Mr. Snyder and Mr. Carter used 12:21</p> <p>10 to routinely refer to Ocean Beach as Ocean Berg. 12:21</p> <p>11 Q What about with regard to 12:21</p> <p>12 homosexuals? 12:21</p> <p>13 A No. 12:21</p> <p>14 Q How about with regard to African 12:21</p> <p>15 Americans? 12:21</p> <p>16 A No. 12:21</p> <p>17 Q Okay. Did any of the other 12:21</p> <p>18 plaintiffs refer to Ocean Beach as Ocean Berg? 12:21</p> <p>19 A Not that I recall. 12:21</p> <p>20 Q Have you had -- were you, personally, 12:22</p> <p>21 involved -- withdrawn. 12:22</p> <p>22 Did you, personally, witness any 12:22</p> <p>23 incidents involving Mr. Nofi's use of physical 12:22</p> <p>24 force? 12:22</p> <p>25 A Yes. 12:22</p>
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<p>1 T. Bacon</p> <p>2 tirades, how he hated Jews, he hated fags, he 12:20</p> <p>3 hated the public. He was looking for an excuse to 12:20</p> <p>4 hit somebody with his baton. 12:20</p> <p>5 We used to get complaints from 12:20</p> <p>6 civilians how he used to poke people with his 12:20</p> <p>7 baton. 12:20</p> <p>8 Q Now, did you ever talk to Mr. Lamm 12:20</p> <p>9 about these anger issues? 12:20</p> <p>10 A No. 12:20</p> <p>11 Q You mentioned Mr. Lamm making some 12:20</p> <p>12 antisemitic comments and homophobic comments. 12:20</p> <p>13 A Yes. 12:20</p> <p>14 Q Can you describe in more detail what 12:20</p> <p>15 you heard Mr. Lamm say with regard to, say, making 12:20</p> <p>16 comments that you believe to be antisemitic? 12:20</p> <p>17 A Just that he hated these fucking 12:21</p> <p>18 Jews. 12:21</p> <p>19 Q Is it you saying "fucking Jews" or is 12:21</p> <p>20 Mr. Lamm saying "fucking Jews"? 12:21</p> <p>21 A No, Mr. Lamm. 12:21</p> <p>22 Referring to Ocean Beach as Ocean 12:21</p> <p>23 Berg. He, he just hated people, in general. 12:21</p> <p>24 Q And what about, with his comments 12:21</p> <p>25 about homosexuals. What, specifically, do you 12:21</p>	<p>1 T. Bacon</p> <p>2 Q Can you describe for the judge and 12:22</p> <p>3 jury, who may be seeing this video, that incident? 12:22</p> <p>4 A Well, Joe Nofi always had a habit of 12:22</p> <p>5 when he approached somebody, he would whistle, and 12:22</p> <p>6 he would tell them, "Hey, you. Come over here. 12:22</p> <p>7 What the fuck are you thinking of?" 12:22</p> <p>8 He was very, very crass, 12:22</p> <p>9 unprofessional. Telling people he ought to give 12:22</p> <p>10 them a smack. He was a very pushy, hands-on guy. 12:22</p> <p>11 We had an incident where we had a 12:22</p> <p>12 fight at the alligator -- 12:22</p> <p>13 Q Who had a fight, you and Mr. Nofi? 12:22</p> <p>14 A No, no. There was a 10-16, a fight. 12:22</p> <p>15 I pulled up on my bicycle. Two people were 12:22</p> <p>16 fighting. Got them separated. 12:22</p> <p>17 I was in the process of putting 12:22</p> <p>18 handcuffs on one of the individuals, who was 12:22</p> <p>19 compliant, and Joe Nofi came running up with a 12:22</p> <p>20 flying tackle, and tackled myself and the 12:23</p> <p>21 individual whom I was handcuffing. 12:23</p> <p>22 Q Were you injured? 12:23</p> <p>23 A Yes, I was. 12:23</p> <p>24 Q And did Mr. Nofi explain why did he 12:23</p> <p>25 that? 12:23</p>

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1 **T. Bacon**

2 A No. 12:23

3 **Q Do you have any basis, given your 12:23**

4 **history in law enforcement that you went over 12:23**

5 **extensively with Mr. Goodstadt, as to why Mr. Novi 12:23**

6 **would have done that? 12:23**

7 A Because he's incompetent. He's a 12:23

8 buffoon. 12:23

9 MR. GOODSTADT: Just note my 12:23

10 objection to the question. 12:23

11 **Q And I will get to this with regard to 12:23**

12 **the other plaintiffs, but what is your -- because 12:23**

13 **you testified to this this morning with regard to 12:23**

14 **Mr. Goodstadt's question. 12:23**

15 **What is your basis for giving the 12:23**

16 **opinion that Mr. Nofi is incompetent and a 12:23**

17 **buffoon? 12:23**

18 A Reading his reports, when I was on 12:23

19 the desk, if he turned in a field report or a 12:23

20 summons, it looked like a five-year old wrote it. 12:23

21 Not just his penmanship, but his verbiage. He 12:23

22 didn't have a good grasp of the English language, 12:24

23 reading it or writing it. 12:24

24 **Q Now, with regard to Mr. Nofi, 12:24**

25 **Mr. Goodstadt asked you this morning some 12:24**

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1 **T. Bacon**

2 **questions and you responded that you had trained, 12:24**

3 **try to train him a little bit? 12:24**

4 A Right. 12:24

5 **Q Can you describe what you meant by 12:24**

6 **that? 12:24**

7 A Whenever somebody, who is new, they 12:24

8 spend a couple of shifts working with each of the 12:24

9 officers. Everybody has their own different 12:24

10 styles or whatever. 12:24

11 **Q Um-hum. 12:24**

12 A And I spent a couple of days with him 12:24

13 and he was a moron. He was pretty much 12:24

14 untrainable. 12:24

15 **Q I believe you testified that, I just 12:24**

16 **want to get my notes to make sure that I am saying 12:24**

17 **this right. 12:24**

18 **You said probably everyone at work 12:24**

19 **spent time with him. 12:24**

20 A Yes. 12:24

21 **Q What did you mean by that? 12:24**

22 A Like I said, everybody would spend a 12:24

23 couple of shifts working with new person. So, I'm 12:24

24 pretty sure almost every person in the department 12:24

25 has spent a day or two working with him -- 12:25

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1 T. Bacon

2 **Q Um-hum. 12:25**

3 A -- in various tours. 12:25

4 **Q Okay. Now, did you ever observe Mr. 12:25**

5 **Hesse criticize Mr. Lamm for how he interacted 12:25**

6 **with the public while on duty? 12:25**

7 A Yes, sir. 12:25

8 **Q Can you describe those circumstances 12:25**

9 **in which you, personally, witnessed Mr. Hesse 12:25**

10 **criticizing Mr. Lamm? 12:25**

11 A Yes. Kevin Lamm had a habit of 12:25

12 dragging people into the station house in 12:25

13 handcuffs for a routine summons. 12:25

14 **Q What do you mean by a "routine 12:25**

15 **summons"? 12:25**

16 A Whenever we issue a summons, we are 12:25

17 supposed to get ID, run a warrant check, give them 12:25

18 the summons, and send them on their way. 12:25

19 Occasionally, you would get somebody who was 12:25

20 non-compliant, didn't want to produce ID, didn't 12:25

21 have ID or whatever. 12:25

22 We would bring them to the station, 12:25

23 usually not in handcuffs. But it seemed like 12:25

24 Kevin would have that happen three or four times a 12:25

25 shift, and George -- there was a memo, actually, 12:25

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1 T. Bacon

2 posted that summonses were to be issued in the 12:26

3 field, you know, unless there was an issue. And 12:26

4 he continued to bring people in in handcuffs. 12:26

5 And when he got done this one last 12:26

6 time, George says, "Kevin, in my office." They 12:26

7 closed the door and he counseled him. 12:26

8 **Q How do you know that he counseled 12:26**

9 **him? 12:26**

10 A Well, he was kind of loud, and the 12:26

11 Chief was annoyed, and I could hear it from behind 12:26

12 the closed door, but he did it behind closed 12:26

13 doors. 12:26

14 **Q What did you hear Chief Hesse say 12:26**

15 **to -- well, was Mr. Hesse the Chief at this time? 12:26**

16 A He was the Acting Deputy Chief, 12:26

17 right. 12:26

18 **Q What did Acting Deputy Chief Hesse 12:26**

19 **say that you heard through the walls? 12:26**

20 A I don't remember specifics, but in 12:26

21 sum and substance it was, "What don't you 12:26

22 understand about issuing field appearance tickets 12:26

23 in the field? You know, there is a memo, you have 12:26

24 been instructed." That was pretty much the gist 12:26

25 of it. 12:26

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1 T. Bacon

2 **Q All right. Now, you testified in 12:26**

3 **response to Mr. Goodstadt's questions concerning 12:27**

4 **your opinion that Mr. Snyder hated the Bosettis? 12:27**

5 A Yes. 12:27

6 **Q Could you, once again, tell the judge 12:27**

7 **and jury what is the basis for that objection? 12:27**

8 MR. GOODSTADT: Objection. 12:27

9 A Because of the tirade that he had 12:27

10 while we were in front of the police station, 12:27

11 sitting on the back of the golf cart. He made it 12:27

12 crystal clear that he did not like them, did not 12:27

13 trust them, that they were a thorn in his side. 12:27

14 **Q And that occurred after the Halloween 12:27**

15 **incident? 12:27**

16 A Yes. 12:27

17 **Q Now, Mr. Goodstadt asked you a 12:27**

18 **question concerning or a number of questions 12:27**

19 **concerning Mr. and Mrs. Jaeger. 12:27**

20 **Do you recall that earlier this 12:27**

21 **morning? 12:27**

22 A Yes. 12:27

23 **Q Now, I believe one of questions he 12:27**

24 **asked you was do you believe that Mrs. Jaeger 12:28**

25 **should have given a statement to the police on the 12:28**

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1 T. Bacon

2 **night of the Halloween incident. 12:28**

3 **Do you recall that question? 12:28**

4 A Yes, I do. 12:28

5 **Q My question is a little bit 12:28**

6 **different. 12:28**

7 **Do you believe the police officer 12:28**

8 **responding to the call should have demanded a 12:28**

9 **statement from Ms. Jaeger during the night of the 12:28**

10 **Halloween incident? 12:28**

11 A Yes. And I am sure, had they gone to 12:28

12 her and spoke to her, she would have voluntarily 12:28

13 given a statement. They wouldn't have had to 12:28

14 demand. 12:28

15 **Q Okay. Well, then let me rephrase the 12:28**

16 **question. 12:28**

17 **Do you think that it was incumbent 12:28**

18 **upon the police officers that night to find 12:28**

19 **Ms. Jaeger and find out what her statement was? 12:28**

20 A Absolutely. 12:28

21 **Q And why is that? What is the basis 12:28**

22 **for your opinion? 12:28**

23 A Based on the conversation with her 12:28

24 and that there was an underlying criminal act 12:28

25 prior to the fight with the Bosettis. 12:28

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1 T. Bacon

2 **Q Is that normal police conduct in 12:28**

3 **terms of getting witness statements from alleged 12:29**

4 **victims? 12:29**

5 A Yes. 12:29

6 **Q Now, we talked about your belief that 12:29**

7 **Mr. Nofi is both stupid and incompetent. The 12:29**

8 **question I have for you, and I believe you 12:29**

9 **testified in response to one of Mr. Goodstadt's 12:29**

10 **questions that, in addition to Mr. Nofi being 12:29**

11 **stupid and incompetent, that the other plaintiffs 12:29**

12 **were incompetent. 12:29**

13 **What is the basis for your belief 12:29**

14 **that the other plaintiffs were incompetent police 12:29**

15 **officers? 12:29**

16 A They weren't effective at doing their 12:29

17 job. 12:29

18 **Q What makes you believe that they 12:29**

19 **weren't effective in doing their job? 12:29**

20 A Personal observations. 12:29

21 **Q Okay. 12:29**

22 A Snyder and Carter were late all the 12:29

23 time. Carter was always up in the barracks 12:29

24 sleeping when he should have been working. Okay. 12:29

25 We had Fiorillo, who was abusive, and 12:29

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1 T. Bacon

2 his goal in life was to issue the greatest number 12:29

3 of summonses, and that is really not an effective 12:29

4 way to police people by just beating people into 12:30

5 submission and getting summonses written. 12:30

6 Sometimes -- first of all, you have 12:30

7 discretion in issuing summonses. If you are not 12:30

8 allowed to rollerblade in Ocean Beach, and you 12:30

9 have to have a shirt on in the business district, 12:30

10 and I am on patrol, and you come and you roll up 12:30

11 on rollerblades with no shirt and ask me for 12:30

12 directions, common sense would say I will give you 12:30

13 the directions and say -- I would educate. "You 12:30

14 need to have a shirt on and you can't have the 12:30

15 rollerblades on." That would be common sents. 12:30

16 Mr. Fiorello lacked that. He would 12:30

17 just sit there and issue the summons and the guy 12:30

18 is clueless. 12:30

19 **Q I would suggest if I rolled up on 12:30**

20 **rollerblades without a shirt on, I would deserve a 12:30**

21 **summons. 12:30**

22 A Perhaps. 12:30

23 **Q How about Mr. Lamm? What is your 12:30**

24 **opinion that Mr. Lamm was an incompetent police 12:30**

25 **officer? 12:30**

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1 **T. Bacon**

2 A Finishing with Fiorillo -- 12:30

3 **Q Okay. 12:31**

4 A -- and I am going to talk about Lamm 12:31

5 as well. 12:31

6 Failure to pay attention to detail, 12:31

7 that goes for the both of them. 12:31

8 **Q What do you mean by that? 12:31**

9 A Not aware of their surroundings, not 12:31

10 aware of what their duties as police officers 12:31

11 were. 12:31

12 You know, Lamm and Fiorillo were 12:31

13 being abusive towards the public, even Nofi for 12:31

14 that matter. I mean, they were bullies with 12:31

15 badges, they were thugs with guns. 12:31

16 **Q And you, personally, witnessed the 12:31**

17 **bullying by Mr. Nofi -- 12:31**

18 A Yes. 12:31

19 **Q -- and Lamm and Fiorillo with the 12:31**

20 **public? 12:31**

21 A Yes. 12:31

22 **Q Did you witness Snyder and Carter 12:31**

23 **being bullies with the public? 12:31**

24 A No. I can't say Snyder and Carter 12:31

25 were being bullies. 12:31

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1 T. Bacon

2 **Q Your opinion of them being 12:31**

3 **incompetent had to do with other things than being 12:31**

4 **bullies? 12:31**

5 A Yes. 12:31

6 **Q And Lamm, anything else you can tell 12:31**

7 **the judge and jury that informs your opinion that 12:31**

8 **Mr. Lamm was an incompetent police officer? 12:31**

9 A Nothing that comes to mind. 12:31

10 **Q Now, Mr. Goodstadt asked you about 12:32**

11 **Mitch, who you identified as hearing the 12:32**

12 **plaintiffs saying "Mitch, the drug dealer," 12:32**

13 **correct? 12:32**

14 **What plaintiffs -- 12:32**

15 **You have to say yes or no. 12:32**

16 A Yes, I apologize. 12:32

17 **Q Which plaintiffs did you hear refer 12:32**

18 **to Mitch as "Mitch, the drug dealer"? 12:32**

19 A Kevin Lamm, Carter, Snyder. 12:32

20 **Q Now, did they ever -- well, 12:32**

21 **withdrawn. 12:32**

22 **And what did they say with regard to 12:32**

23 **"Mitch, the drug dealer," that you can recall? 12:32**

24 A Just referring to him as "Mitch, the 12:32

25 drug dealer." 12:32

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1 T. Bacon

2 **Q Okay. And did they ever give you the 12:32**

3 **basis for their opinion that Mitch was a drug 12:32**

4 **dealer? 12:32**

5 A No. 12:32

6 **Q Did they ever advise you that they 12:32**

7 **saw Mitch selling drugs? 12:32**

8 A No. 12:32

9 **Q Did they ever advise you that they 12:32**

10 **were ever told that Mitch was selling drugs? 12:32**

11 A No. If Mitch was, in fact, selling 12:33

12 drugs and they had knowledge, my question is: Why 12:33

13 didn't they arrest them? They are police 12:33

14 officers. 12:33

15 **Q Now, you made reference to Alison 12:33**

16 **Sanchez in response to, or Alison Chester, I don't 12:33**

17 **recall exactly how much Mr. Goodstadt used her 12:33**

18 **name, as an expert in civil service law. 12:33**

19 **What makes you believe that she was 12:33**

20 **an expert? 12:33**

21 A Well, she works for the Department of 12:33

22 Civil Service. She is the one -- and I don't 12:33

23 believe I said "civil service law." If I did 12:33

24 that, I don't know. 12:33

25 But she is a representative from 12:33

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1 T. Bacon

2 civil service that we were instructed to contact 12:33

3 with -- some of the correspondence I had gotten 12:33

4 was from her, and she doesn't just deal with us as 12:33

5 a police department, she works for Suffolk County 12:33

6 Civil Service, and there is probably hundreds of 12:33

7 various civil service titles within the County. 12:33

8 **Q Now, let me ask you this question: 12:34**

9 **For what reason were you advised to call 12:34**

10 **Ms. Chester or Ms. Sanchez, depending on what her 12:34**

11 **name was at the time? 12:34**

12 A Because I had to go back and I had to 12:34

13 reprocess through civil service because, 12:34

14 apparently, Chief Paradiso never notified them 12:34

15 that I was back to work with Village. 12:34

16 **Q When was this, back when -- 12:34**

17 A Well, when I first came back in '99, 12:34

18 I don't believe I found out that I had to go back 12:34

19 to civil service until 2003, maybe 2004. 12:34

20 **Q Was there a certification issue that 12:34**

21 **you became aware of in the 2004 time period? 12:34**

22 A Yes. 12:34

23 **Q Can you just describe what your 12:34**

24 **understanding was of the certification issue? 12:34**

25 A That I needed to go through the civil 12:34

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1 T. Bacon
2 service process to tie up loose ends. 12:34
3 **Q And who told you that there was a 12:34**
4 **certification issue? 12:34**
5 A I had gotten a letter from civil 12:34
6 service signed by Allison Sanchez. 12:34
7 **Q Did you ever speak to Mr. Hesse about 12:34**
8 **the certification issues? 12:35**
9 A Yes. 12:35
10 **Q What was the sum and substance of the 12:35**
11 **conversation with Mr. Hesse? 12:35**
12 A Eddie Paradiso dropped the ball, 12:35
13 never notified them that I was back working for 12:35
14 them, and that I had to reprocess, and any further 12:35
15 questions were to be directed towards Alison. 12:35
16 **Q And did there come a point time that 12:35**
17 **you had to retake certain tests? 12:35**
18 A I did. 12:35
19 **Q How many tests did you take? 12:35**
20 A I did the medical, the polygraph, the 12:35
21 physical agility. I don't believe I did the 12:35
22 psychological. 12:35
23 I completed everything but the 12:35
24 psychological, and then I had gotten notification 12:35
25 from civil service that I was, in fact, certified 12:35

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1 T. Bacon
2 and it was an error on their part. 12:35
3 **Q So, the reason why you didn't take 12:35**
4 **the psychological was because you were notified -- 12:35**
5 **that you didn't because you were, in fact, 12:35**
6 **certified? 12:35**
7 A Right. And that the other tests that 12:35
8 I had taken were for naught. 12:35
9 **Q Again, I think Mr. Snyder is in the 12:36**
10 **room; correct? 12:36**
11 A Yes. 12:36
12 **Q Did there come a time that Mr. Snyder 12:36**
13 **spoke to you about his prior military experience? 12:36**
14 A Yes. 12:36
15 **Q And do you recall when he would have 12:36**
16 **spoken you to about this? 12:36**
17 A That was back when he first came on 12:36
18 with Ocean Beach, and I was new, I think I had 12:36
19 been there about a year already. So, I am going 12:36
20 to say it was in the early '90s. 12:36
21 **Q And what do you recall Mr. Snyder 12:36**
22 **saying to you with regard to his prior military 12:36**
23 **experience? 12:36**
24 A That he was in the Navy. That there 12:36
25 was a problem with civil service, and I think he 12:36

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1 T. Bacon
2 was in the process of applying for the park 12:36
3 rangers at that point, or maybe he was on, but 12:36
4 there was a problem because of his discharge. 12:36
5 **Q And did he tell you what type of 12:36**
6 **discharge he had? 12:36**
7 A He did not. 12:36
8 **Q Did you ask? 12:36**
9 A No, I did not. 12:36
10 **Q Are you a member of the military? 12:36**
11 A I am or was, excuse me. 12:36
12 **Q For how long were you a member of the 12:36**
13 **military? 12:37**
14 A Almost 22 years. 12:37
15 **Q In your capacity as a member of the 12:37**
16 **military, what type of discharges are there? 12:37**
17 A There is honorable, there is general, 12:37
18 and then there is dishonorable. 12:37
19 **Q In your experience, if someone was 12:37**
20 **having a problem with civil service, would it be 12:37**
21 **because they were honorably discharged? 12:37**
22 MR. GOODSTADT: Objection. 12:37
23 A Certainly not. 12:37
24 **Q How about, would they have a problem 12:37**
25 **with civil service if they were dishonorably 12:37**

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1 T. Bacon
2 **discharged? 12:37**
3 MR. GOODSTADT: Objection. 12:37
4 A Absolutely. 12:37
5 BY MR. NOVIKOFF: 12:37
6 **Q What is the basis for your opinion? 12:37**
7 A If you have anything other than an 12:37
8 honorable discharge, you are going to have 12:37
9 problems with civil service. Even with an 12:37
10 honorable discharge, you have to have an RE-1 code 12:37
11 or an RE-2 code. That is a reenlistment eligible 12:37
12 code that allows you to reenlist in the military, 12:37
13 which means you left under honorable conditions 12:37
14 and the military would take you back. 12:37
15 **Q Did you ever submit a reference for 12:37**
16 **Mr. Fiorillo with regard to the FBI? 12:37**
17 A Yes. 12:37
18 **Q When did that take place? 12:37**
19 A That was during his first season 12:38
20 being there. 12:38
21 **Q Did he ask you to submit a reference? 12:38**
22 A No. 12:38
23 **Q What were the circumstances 12:38**
24 **surrounding you submitting a reference to the FBI 12:38**
25 **on behalf of Mr. Fiorillo? 12:38**

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<p>1 T. Bacon</p> <p>2 A I had gotten a phone call from his 12:38</p> <p>3 investigator. 12:38</p> <p>4 Q What did the investigator ask you? 12:38</p> <p>5 A How he was as a police officer, asked 12:38</p> <p>6 me questions regarding his character. 12:38</p> <p>7 Q And, to your knowledge, did 12:38</p> <p>8 Mr. Fiorillo ever get the job with the FBI? 12:38</p> <p>9 A To my knowledge, no, he did not. 12:38</p> <p>10 Q Now, I am trying to go back in my 12:38</p> <p>11 mind to February, which is difficult. 12:38</p> <p>12 I think Mr. Goodstadt asked you about 12:38</p> <p>13 an arrest that you had for -- I'm 12:38</p> <p>14 sorry, withdrawn. 12:38</p> <p>15 Mr. Goodstadt asked you about you 12:38</p> <p>16 engaging in -- you engaging the services of a 12:38</p> <p>17 prostitute at one point in time in your life. 12:39</p> <p>18 A Yes. 12:39</p> <p>19 Q Do you recall that? 12:39</p> <p>20 A I do. 12:39</p> <p>21 Q And I believe you testified that you 12:39</p> <p>22 had numerous prostitutes on that same evening? 12:39</p> <p>23 A Yes. 12:39</p> <p>24 Q Where was this brothel that you were 12:39</p> <p>25 in? 12:39</p>	<p>1 T. Bacon</p> <p>2 in the last 20 years, get a secret security 12:40</p> <p>3 clearance for your military job? 12:40</p> <p>4 A Yes. 12:40</p> <p>5 Q Okay. And can you describe for 12:40</p> <p>6 the -- well, you know what, let's go back and talk 12:40</p> <p>7 about what you have done with your life in the 12:40</p> <p>8 last 20 years before we get to that question. 12:40</p> <p>9 Are you a volunteer fireman? 12:40</p> <p>10 A I am. 12:40</p> <p>11 Q For how many years have you been a 12:40</p> <p>12 volunteer fireman? 12:40</p> <p>13 A Twenty-five. 12:40</p> <p>14 Q Where are you a volunteer fire 12:40</p> <p>15 person? 12:40</p> <p>16 A In Islip. 12:40</p> <p>17 Q And on 9/11, were you employed? 12:40</p> <p>18 A I was. 12:40</p> <p>19 Q And where were you employed? 12:40</p> <p>20 A I was employed as a Senior Court 12:40</p> <p>21 Officer at Supreme Court, Criminal Term, 100 12:40</p> <p>22 Centre Street, here in New York. 12:40</p> <p>23 Q Now, on September 11th, 2001, this 12:40</p> <p>24 country encountered the tragic events of terrorist 12:41</p> <p>25 attacks; correct? 12:41</p>
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<p>1 T. Bacon</p> <p>2 A It was the Marble Palace in 12:39</p> <p>3 Frankfurt, Germany. 12:39</p> <p>4 Q When? 12:39</p> <p>5 A Back in 1985. 12:39</p> <p>6 Q So, that is over 20 years ago? 12:39</p> <p>7 A Yes. 12:39</p> <p>8 MR. GOODSTADT: Objection. 12:39</p> <p>9 MR. NOVIKOFF: Did I miscalculate the 12:39</p> <p>10 math in any context? 12:39</p> <p>11 MR. GOODSTADT: No. 12:39</p> <p>12 BY MR. NOVIKOFF: 12:39</p> <p>13 Q And, to your knowledge, was it 12:39</p> <p>14 illegal in that part of Germany at that period of 12:39</p> <p>15 time to be with a prostitute? 12:39</p> <p>16 A No, it was legal. 12:39</p> <p>17 Q It was legal? 12:39</p> <p>18 A Yes. 12:39</p> <p>19 Q Okay. So, we can move on from that. 12:39</p> <p>20 Now, Mr. Goodstadt asked you, I 12:39</p> <p>21 think, a question about another arrest that you 12:39</p> <p>22 had concerning -- withdrawn. 12:39</p> <p>23 You know what, the testimony is what 12:39</p> <p>24 it is. 12:40</p> <p>25 Did you ever have to, in any capacity 12:40</p>	<p>1 T. Bacon</p> <p>2 A It did. 12:41</p> <p>3 Q Were you involved in any aspect of 12:41</p> <p>4 the terrorist attack or the aftermath of the 12:41</p> <p>5 terrorist attack on September 11? 12:41</p> <p>6 A Yes. 12:41</p> <p>7 Q Can you please describe for the jury 12:41</p> <p>8 and the judge, who may be listening to this, what 12:41</p> <p>9 your involvement was shortly after the planes hit 12:41</p> <p>10 the towers and the towers came down? 12:41</p> <p>11 A I was part of the security detail at 12:41</p> <p>12 100 Centre Street. I was the building's EMT or 12:41</p> <p>13 emergency medical technician. We mobilized about 12:41</p> <p>14 12 officers. We had our major, a sergeant and ten 12:41</p> <p>15 other officers. 12:41</p> <p>16 We took a jury bus down to the World 12:41</p> <p>17 Trade Center site. We were on Broadway and Vesey 12:41</p> <p>18 Street right over by, I guess it was, 7 World 12:41</p> <p>19 Trade Center. 12:41</p> <p>20 We went down there. Prior to getting 12:41</p> <p>21 on the bus, we grabbed all sorts of medical 12:41</p> <p>22 equipment. Everybody who was mobilized were 12:42</p> <p>23 former military, medical background, and our 12:42</p> <p>24 intent was to assist New York City EMS treating 12:42</p> <p>25 the sick and injured, because we knew the system 12:42</p>

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<p>1 T. Bacon</p> <p>2 would be overwhelmed. 12:42</p> <p>3 Q How long, on 9/11 how long were you 12:42</p> <p>4 there for? 12:42</p> <p>5 A Almost the entire day. 12:42</p> <p>6 Q With you there on September 12? 12:42</p> <p>7 A Yes. 12:42</p> <p>8 Q September 13? 12:42</p> <p>9 A Yes. 12:42</p> <p>10 Q How many days or weeks were you at 12:42</p> <p>11 9/11, at the tower site after 9/11? 12:42</p> <p>12 A I was down there for about a month, 12:42</p> <p>13 with the exception of two days that I had to 12:42</p> <p>14 report for military duty, which I was called back 12:42</p> <p>15 to New York for. 12:42</p> <p>16 Q And where was this military duty? 12:42</p> <p>17 A At McGuire Air Force Base in New 12:42</p> <p>18 Jersey. 12:42</p> <p>19 Q And did you rescue any person on 12:42</p> <p>20 9/11? 12:42</p> <p>21 A I did. Actually, I was in the mall 12:42</p> <p>22 area, beneath tower two. Myself, Mitch Wallace, 12:42</p> <p>23 Harry Thompson, and Tommy Jergens had come upon 12:43</p> <p>24 six injured victims that weren't ambulatory. We 12:43</p> <p>25 did a quick triage. 12:43</p>	<p>1 T. Bacon</p> <p>2 A Correct. 12:44</p> <p>3 Q As well as the five other individuals 12:44</p> <p>4 that you originally encountered? 12:44</p> <p>5 A Yes. 12:44</p> <p>6 Q And you were trapped in the collapse, 12:44</p> <p>7 you were caught in the collapse? 12:44</p> <p>8 A I was caught in the collapse; I was 12:44</p> <p>9 not trapped. I was disoriented, but not trapped. 12:44</p> <p>10 Q Did you receive any type of medal or 12:44</p> <p>11 other type of commendations for your efforts that 12:44</p> <p>12 day? 12:44</p> <p>13 A I did. 12:44</p> <p>14 Q Can you tell the jury and the judge, 12:44</p> <p>15 who may be seeing this video, what you received? 12:44</p> <p>16 A I received a Medal of Valor for New 12:44</p> <p>17 York State, received the Medal of Valor from my 12:44</p> <p>18 job, received a letter signed by both the 12:44</p> <p>19 President and the First Lady. 12:44</p> <p>20 Also, with respect to the Air Force 12:44</p> <p>21 Reserves because -- 12:44</p> <p>22 Q Okay. Go ahead. 12:44</p> <p>23 A -- because I was a service member, 12:44</p> <p>24 and we were under attack, I received the William 12:45</p> <p>25 Pitsenbarger Award from the Air Force Reserve 12:45</p>
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<p>1 T. Bacon</p> <p>2 The woman, who later was known to me 12:43</p> <p>3 as Doris Torres, had burns over approximately 12:43</p> <p>4 60 percent of her body. We deemed her to be 12:43</p> <p>5 critical and I was to remove her. 12:43</p> <p>6 In the process of removing her, tower 12:43</p> <p>7 two came down. We got caught in the collapse. It 12:43</p> <p>8 was just outside the collapse zone. 12:43</p> <p>9 The three other officers had 12:43</p> <p>10 perished, as well as the other victims that they 12:43</p> <p>11 were treating. 12:43</p> <p>12 I put over a mayday over the radio, 12:43</p> <p>13 because I was lost and disoriented, ended up 12:43</p> <p>14 finding my way back out and, ultimately, 12:43</p> <p>15 successfully removed Ms. Torres, with the 12:43</p> <p>16 assistance of an FBI agent, a Port Authority cop 12:43</p> <p>17 and a civilian to a triage center a couple of 12:43</p> <p>18 blocks away. 12:43</p> <p>19 Q So, I was mistaken earlier. 12:44</p> <p>20 You didn't go to twin tower sites 12:44</p> <p>21 after the collapse, you went there while they were 12:44</p> <p>22 still on fire? 12:44</p> <p>23 A Yes. 12:44</p> <p>24 Q And the officers that you went with 12:44</p> <p>25 all perished? 12:44</p>	<p>1 T. Bacon</p> <p>2 Command. 12:45</p> <p>3 I was later nominated and became the 12:45</p> <p>4 firefighter of the year for the Air Force Reserve 12:45</p> <p>5 command, the United States Air Force and the 12:45</p> <p>6 Department of Defense. 12:45</p> <p>7 Q And did Senator Clinton at any point 12:45</p> <p>8 in time mention your name for any purpose on the 12:45</p> <p>9 senate floor? 12:45</p> <p>10 A Yes. 12:45</p> <p>11 MR. GOODSTADT: Objection. 12:45</p> <p>12 A There was a proclamation by Senator 12:45</p> <p>13 Clinton, specifically acknowledging the efforts of 12:45</p> <p>14 the court officers who responded, as well as those 12:45</p> <p>15 who perished. 12:45</p> <p>16 Q Now, to your knowledge, did 12:45</p> <p>17 Mr. Snyder ever go down to the 9/11 site to 12:45</p> <p>18 assist? 12:45</p> <p>19 A No. 12:45</p> <p>20 Q To your knowledge, did Mr. Carter 12:45</p> <p>21 ever go down to the 9/11 site to assist? 12:45</p> <p>22 A No. 12:45</p> <p>23 Q How about Mr. Lamm? 12:45</p> <p>24 A No. 12:45</p> <p>25 Q Now, if I told that you Mr. Nofi was 12:45</p>

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<p>1 T. Bacon</p> <p>2 seeking some type of monetary benefit for his 12:45</p> <p>3 alleged involvement in 9/11, what would your 12:45</p> <p>4 opinion be of that? 12:46</p> <p>5 A I would say he's full of shit. 12:46</p> <p>6 Q To your knowledge, did Mr. Nofi ever 12:46</p> <p>7 go down to 9/11 to help out? 12:46</p> <p>8 A He may have, but not with Ocean Beach 12:46</p> <p>9 Police, it was -- I don't know. 12:46</p> <p>10 Q Did he ever speak of it? 12:46</p> <p>11 A No. 12:46</p> <p>12 Q Now -- 12:46</p> <p>13 THE VIDEOGRAPHER: I'm sorry. I need 12:46</p> <p>14 to change the tape. 12:46</p> <p>15 MR. NOVIKOFF: Yeah. Okay. Take a 12:46</p> <p>16 quick break. I probably have maybe 20 more 12:46</p> <p>17 minutes left. 12:46</p> <p>18 THE WITNESS: Okay. 12:46</p> <p>19 THE VIDEOGRAPHER: The time is 12:46</p> <p>20 12:46 p.m. 12:46</p> <p>21 We are going off the record. 12:46</p> <p>22 (Recess taken.) 12:53</p> <p>23 THE VIDEOGRAPHER: The time is 12:53</p> <p>24 12:54 p.m. 12:53</p> <p>25 We are back on the record with video 12:53</p>	<p>1 T. Bacon</p> <p>2 president, you were a step below. 12:54</p> <p>3 Okay. So you received security -- 12:54</p> <p>4 secret security clearance through United States 12:54</p> <p>5 Air Force? 12:54</p> <p>6 A Correct. 12:55</p> <p>7 Q When did you receive that? 12:55</p> <p>8 A Back in 1987. 12:55</p> <p>9 Q And at any point in time, did you -- 12:55</p> <p>10 was that secret security clearance taken away? 12:55</p> <p>11 A Never. 12:55</p> <p>12 Q And to your knowledge, did you have 12:55</p> <p>13 to undergo a background check before you got such 12:55</p> <p>14 secret security clearance? 12:55</p> <p>15 A You have to get it before you get it 12:55</p> <p>16 and every ten years it's up for review, and you 12:55</p> <p>17 have to resubmit your package, where they conduct 12:55</p> <p>18 another background investigation, and you are 12:55</p> <p>19 printed again, and it's like you never had it, but 12:55</p> <p>20 it's just to keep it going. 12:55</p> <p>21 Q Did you ever have to take any lie 12:55</p> <p>22 detector test? 12:55</p> <p>23 A No, I did not. 12:55</p> <p>24 Q Do you recall what you had to submit 12:55</p> <p>25 to the United States Air Force to get a secret 12:55</p>
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<p>1 T. Bacon</p> <p>2 number three. 12:53</p> <p>3 BY MR. NOVIKOFF: 12:53</p> <p>4 Q Mr. Bacon, let's go over your 12:54</p> <p>5 military record. 12:54</p> <p>6 When did you first join the military? 12:54</p> <p>7 A I enlisted back in 1987. 12:54</p> <p>8 Q As what? 12:54</p> <p>9 A As -- enlisted in the Air National 12:54</p> <p>10 Guard and I went in as an airman basic. 12:54</p> <p>11 Q What is a airman basic? 12:54</p> <p>12 A It's a no striper, entry level. 12:54</p> <p>13 Q Were you a reservist or full time? 12:54</p> <p>14 A I was in the National Guard. I was a 12:54</p> <p>15 reservist. 12:54</p> <p>16 Q For how long have you been a 12:54</p> <p>17 reservist? 12:54</p> <p>18 A My entire career. 12:54</p> <p>19 Q For how many years? 12:54</p> <p>20 A Almost 22. 12:54</p> <p>21 Q Now, I think you said you received a 12:54</p> <p>22 top security clearance through the United States 12:54</p> <p>23 Air Force. 12:54</p> <p>24 A Secret, not top secret, but secret. 12:54</p> <p>25 Q Just secret. So, you weren't the 12:54</p>	<p>1 T. Bacon</p> <p>2 security clearance? 12:55</p> <p>3 A Everything that is in my Ocean Beach 12:55</p> <p>4 Police personnel file, as far as the investigation 12:55</p> <p>5 questionnaire and then some. 12:55</p> <p>6 Q Okay. When you say "and then some," 12:55</p> <p>7 what is it? 12:55</p> <p>8 A Extensive background check into your 12:56</p> <p>9 finances, political affiliations, extracurricular, 12:56</p> <p>10 you know, hobbies -- 12:56</p> <p>11 Q Um-hum. 12:56</p> <p>12 A -- any organizations that you may 12:56</p> <p>13 belong to. 12:56</p> <p>14 Q Right. 12:56</p> <p>15 And were you ever discharged from the 12:56</p> <p>16 Air Force Reserves? 12:56</p> <p>17 A Yes. 12:56</p> <p>18 Q And what type of discharge did you 12:56</p> <p>19 receive? 12:56</p> <p>20 A Honorable. 12:56</p> <p>21 Q When did you receive that? 12:56</p> <p>22 A I have received a couple of various 12:56</p> <p>23 honorable discharges at the end of my enlistments 12:56</p> <p>24 and my service overseas. Currently, I am retired. 12:56</p> <p>25 Q How many honorable discharges did you 12:56</p>

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<p>1 T. Bacon</p> <p>2 receive -- have you received? 12:56</p> <p>3 A Four. 12:56</p> <p>4 Q And when was the first? 12:56</p> <p>5 A Upon completing basic training, back 12:56</p> <p>6 in 1987. 12:56</p> <p>7 Q Okay. And did you ever serve 12:56</p> <p>8 overseas in a war? 12:56</p> <p>9 A Yes. 12:56</p> <p>10 Q When was the first time that you 12:56</p> <p>11 served overseas in a war? 12:56</p> <p>12 A Back in 2000, we were in Kuwait, 12:56</p> <p>13 enforcing the No Fly Zone. 12:56</p> <p>14 Q Okay. And what was your position? 12:56</p> <p>15 What was your title at the time? 12:56</p> <p>16 MR. GOODSTADT: Just note my standing 12:57</p> <p>17 objection to all these questions. Although 12:57</p> <p>18 I find them extremely interesting and I am 12:57</p> <p>19 happy to hear all these accomplishments, I 12:57</p> <p>20 know it's preserved, but I do have a 12:57</p> <p>21 relevance objection to all these, this line 12:57</p> <p>22 of questions. 12:57</p> <p>23 MR. NOVIKOFF: I presume -- 12:57</p> <p>24 MR. GOODSTADT: It's preserved. 12:57</p> <p>25 MS. MAC GREGOR: -- since you were 12:57</p>	<p>1 T. Bacon</p> <p>2 Q Where were you? 12:58</p> <p>3 A Kirkuk, Iraq. 12:58</p> <p>4 Q For how long were you there? 12:58</p> <p>5 A Six months. 12:58</p> <p>6 Q And what were doing there? 12:58</p> <p>7 A I was the Assistant Fire Chief. 12:58</p> <p>8 Q Did you have to go to Iraq? 12:58</p> <p>9 A I did not. 12:58</p> <p>10 Q And why didn't you have to go to 12:58</p> <p>11 Iraq? 12:58</p> <p>12 A I had my 20 years, and I could have 12:58</p> <p>13 retired at that point, but the unit was going and 12:58</p> <p>14 I wanted to go with my guys. 12:58</p> <p>15 Q And were there any newspaper articles 12:58</p> <p>16 written about you, in terms of you going to Iraq? 12:58</p> <p>17 A Yes. 12:58</p> <p>18 Q Where were these newspaper articles? 12:58</p> <p>19 A In probably local newspapers, but 12:58</p> <p>20 they were also in monthly periodicals, Fire 12:58</p> <p>21 Engineering, Firehose Magazine, Air Force Times. 12:58</p> <p>22 Q And, so, are you presently retired 12:58</p> <p>23 from the military? 12:59</p> <p>24 A I am. 12:59</p> <p>25 Q To your knowledge, did any of the 12:59</p>
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<p>1 T. Bacon</p> <p>2 trying to discredit him, that these would be 12:57</p> <p>3 relevant to that. 12:57</p> <p>4 But that is okay. It's preserved. 12:57</p> <p>5 We understand. 12:57</p> <p>6 MR. CONNOLLY: I'm sorry. What was 12:57</p> <p>7 the question? 12:57</p> <p>8 THE WITNESS: About serving overseas. 12:57</p> <p>9 MR. NOVIKOFF: Let's have it read 12:57</p> <p>10 back. 12:57</p> <p>11 (Record read.) 12:57</p> <p>12 A I held the rank of staff sergeant and 12:57</p> <p>13 I was a crew chief in the fire department. 12:57</p> <p>14 Q And for how long did you serve in 12:57</p> <p>15 Kuwait? 12:57</p> <p>16 A A little over a month. 12:57</p> <p>17 Q Did you see combat? 12:57</p> <p>18 A I did not. 12:57</p> <p>19 Q And was there another time that you 12:57</p> <p>20 were overseas as military reservist in a war zone? 12:57</p> <p>21 A Yes. 12:58</p> <p>22 Q When was that? 12:58</p> <p>23 A Last year. 12:58</p> <p>24 Q 2008? 12:58</p> <p>25 A Yes. 12:58</p>	<p>1 T. Bacon</p> <p>2 plaintiffs volunteer to serve their country in any 12:59</p> <p>3 of the wars that you were in? 12:59</p> <p>4 A No. 12:59</p> <p>5 MR. GOODSTADT: Objection. 12:59</p> <p>6 MR. NOVIKOFF: What is the objection? 12:59</p> <p>7 MR. GOODSTADT: The same standing 12:59</p> <p>8 objection I am going to have to this entire 12:59</p> <p>9 line of question. 12:59</p> <p>10 MR. NOVIKOFF: Relevance? 12:59</p> <p>11 MR. GOODSTADT: Relevance. 12:59</p> <p>12 MR. NOVIKOFF: You don't have to say 12:59</p> <p>13 relevance. You know we preserved that for 12:59</p> <p>14 time of trial. 12:59</p> <p>15 A Mr. Snyder served, but couldn't 12:59</p> <p>16 complete voluntary enlistment. 12:59</p> <p>17 Q Okay. What is voluntary enlistment? 12:59</p> <p>18 A He enlisted and couldn't complete his 12:59</p> <p>19 term of obligation. 12:59</p> <p>20 Q Now, have you received any awards or 12:59</p> <p>21 commendations for your work as a New York State 12:59</p> <p>22 Court Officer? 12:59</p> <p>23 A I have. 12:59</p> <p>24 Q Please tell the jury and judge, who 12:59</p> <p>25 may be seeing this, what commendations you 12:59</p>

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1	T. Bacon	1	T. Bacon
2	received? 12:59	2	A Correct. 01:01
3	A The Medal of Valor, both from the 12:59	3	Q A part-time police officer? 01:01
4	State and the job for 9/11, three lifesaving 12:59	4	A Yes. 01:01
5	awards, and the Medal of Excellence. 12:59	5	Q A full-time court officer? 01:01
6	Q What is a Medal of Excellence? 12:59	6	A Yes. 01:01
7	A It's for performing above and 01:00	7	Q And you served your country in two 01:01
8	beyond -- actually, that was for an aided case and 01:00	8	wars and have been a military reservist? 01:01
9	reviving a cardiac arrest victim. 01:00	9	A Yes. 01:01
10	Q Have you receive any meritorious -- 01:00	10	Q Now, let's go back, briefly, to -- 01:01
11	I'm sorry, withdrawn. 01:00	11	are you proud of your service to your country? 01:01
12	Have you received any medals or 01:00	12	A Absolutely. 01:01
13	commendations concerning your job at Ocean Beach? 01:00	13	Q Is there any reason why you would lie 01:01
14	A Yes. 01:00	14	in this lawsuit? 01:01
15	Q And can you tell the jury and judge, 01:00	15	A No. 01:01
16	who may be seeing this, what commendations you 01:00	16	MR. GOODSTADT: Objection. 01:01
17	have received? 01:00	17	A None whatsoever. 01:01
18	A Yes. I received a Meritorious Police 01:00	18	Q Are you friends with George Hesse? 01:01
19	Award, police service award. 01:00	19	A Yes. 01:01
20	Q Okay. Now, you worked at Westhampton 01:00	20	Q Do you socialize with George Hesse? 01:01
21	Police Department? 01:00	21	A On occasion. 01:01
22	A Yes. 01:00	22	Q Would you lie for George Hesse? 01:01
23	Q When? 01:00	23	A No. 01:01
24	A Back in 1989. 01:00	24	Q Would you lie for Mayor Laughlin? 01:01
25	Q And for how long? 01:00	25	A No. 01:01
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1	T. Bacon	1	T. Bacon
2	A A year, one season. 01:00	2	Q Is there anything that you can think 01:01
3	Q And did you work in the Riverhead 01:00	3	of that would cause you to subject your integrity 01:01
4	Police Department? 01:00	4	to scrutiny with regard to your testimony in this 01:02
5	A I did. 01:00	5	case? 01:02
6	Q For how long? 01:00	6	A None whatsoever. 01:02
7	A About a year-and-a-half. 01:00	7	Q Is your integrity important to you? 01:02
8	Q When? 01:00	8	A Absolutely. 01:02
9	A '93 to, maybe, '95, '94. 01:00	9	Q Is your reputation important to you? 01:02
10	Q Did you work at the Harbor Police 01:00	10	A Yes. 01:02
11	Department? 01:00	11	Q And are you proud of the 01:02
12	A I did. 01:00	12	accomplishments and the accolades that you have 01:02
13	Q How long? 01:00	13	received? 01:02
14	A From '94 through, maybe, '96. 01:00	14	A Extremely. 01:02
15	Q Did you work at the MacArthur Airport 01:01	15	Q You wouldn't want anyone to suggest 01:02
16	Police Department? 01:01	16	that you were less than honorable, given the fact 01:02
17	A Yes. 01:01	17	that you received all these accolades? 01:02
18	Q For how long? 01:01	18	A Correct. 01:02
19	A '96 through '99, somewhere in that 01:01	19	Q Now, Mr. Goodstadt asked you about 01:02
20	time frame. 01:01	20	George Hesse drinking while in Ocean Beach. He 01:02
21	Q And were all these part-time jobs? 01:01	21	didn't ask who was Mr. Hesse was drinking with; do 01:02
22	A Yes. 01:01	22	you recall that? 01:02
23	Q So, if I understand you correctly, 01:01	23	A No, I don't. 01:02
24	for the better part of the last 25 years, you are 01:01	24	Q He asked you, do you recall 01:02
25	a volunteer fireman? 01:01	25	Mr. Goodstadt asking if you ever saw George Hesse 01:02

Page 421	Page 423
<p>1 T. Bacon</p> <p>2 drinking in a bar in Ocean Beach? 01:02</p> <p>3 A Oh, yes, yes. I remember the 01:02</p> <p>4 question. 01:02</p> <p>5 Q Do you recall Mr. Goodstadt ever 01:02</p> <p>6 asking who was Mr. Hesse was drinking with in a 01:02</p> <p>7 bar at Ocean Beach? 01:02</p> <p>8 A I believe it was his wife. 01:02</p> <p>9 Q Do you recall Mr. Goodstadt ever 01:02</p> <p>10 asking that you that question? 01:02</p> <p>11 A No, he did not. 01:02</p> <p>12 Q I'm going to ask you that question: 01:02</p> <p>13 Who was Mr. Hesse drinking with in the bar in 01:02</p> <p>14 Ocean Beach? 01:03</p> <p>15 A His wife. 01:03</p> <p>16 Q Do you know, was he having dinner or 01:03</p> <p>17 lunch at the time with his wife? 01:03</p> <p>18 A He was having dinner. 01:03</p> <p>19 Q What was the reputation of Mr. Snyder 01:03</p> <p>20 among the other police officers? Putting aside 01:03</p> <p>21 the plaintiffs for a moment, what was Mr. Snyder's 01:03</p> <p>22 reputation like among the other police officers at 01:03</p> <p>23 Ocean Beach while you and he worked there? 01:03</p> <p>24 MR. GOODSTADT: Objection. 01:03</p> <p>25 A A lot of guys would choose not to 01:03</p>	<p>1 T. Bacon</p> <p>2 A Generally speaking, I mean I don't 01:04</p> <p>3 recall anything specific; that was just a 01:04</p> <p>4 general -- 01:04</p> <p>5 Q What about Mr. Lamm's reputation 01:04</p> <p>6 among the police officers, what was that like, 01:04</p> <p>7 other than the plaintiffs? 01:04</p> <p>8 A He was out there. He was dangerous. 01:04</p> <p>9 Q What about Mr. Nofi's reputation 01:04</p> <p>10 among the other Ocean Beach police officers? 01:04</p> <p>11 A He was a complete moron and had no 01:04</p> <p>12 business being a cop. 01:05</p> <p>13 Q What about Mr. Fiorillo's reputation 01:05</p> <p>14 among the other police officers? 01:05</p> <p>15 A Once again, somebody who was 01:05</p> <p>16 dangerous, not clear thinking. I don't think he 01:05</p> <p>17 was capable of making sound judgments. Not me, 01:05</p> <p>18 but I think that was, generally speaking, other 01:05</p> <p>19 officers. 01:05</p> <p>20 MR. NOVIKOFF: I have nothing 01:05</p> <p>21 further. Thank you. 01:05</p> <p>22 THE WITNESS: Thanks. I'm sure you 01:05</p> <p>23 have some redirect. 01:05</p> <p>24 MR. NOVIKOFF: Hold on. Mr. Hesse's 01:05</p> <p>25 attorney has nothing? 01:05</p>
Page 422	Page 424
<p>1 T. Bacon</p> <p>2 work with him. 01:03</p> <p>3 Q And why is that? 01:03</p> <p>4 A Because they thought he was a loaded 01:03</p> <p>5 gun, waiting to go off. The hostilities that he 01:03</p> <p>6 harbored toward the Bosettis kept him from, I 01:03</p> <p>7 guess, functioning properly and performing his 01:04</p> <p>8 duties as expected. 01:04</p> <p>9 Q What was Mr. Carter's reputation 01:04</p> <p>10 among the police officers of Ocean Beach, other 01:04</p> <p>11 than the plaintiffs here? 01:04</p> <p>12 A When he was awake, he was a do 01:04</p> <p>13 nothing. 01:04</p> <p>14 Q What do you mean by that? 01:04</p> <p>15 A Because he was always up in the 01:04</p> <p>16 barracks sleeping. 01:04</p> <p>17 Q What was his reputation? Not what 01:04</p> <p>18 was your opinion of him, what was the reputation 01:04</p> <p>19 among the other police officers? 01:04</p> <p>20 A Lazy and useless. 01:04</p> <p>21 Q And you base your opinion of his 01:04</p> <p>22 reputation on what? 01:04</p> <p>23 A My own observations. 01:04</p> <p>24 Q How about any conversations with 01:04</p> <p>25 other police officers about Carter? 01:04</p>	<p>1 T. Bacon</p> <p>2 MR. CONNOLLY: I have no questions. 01:05</p> <p>3 MR. GOODSTADT: Okay. I have some 01:05</p> <p>4 questions. 01:05</p> <p>5 FURTHER EXAMINATION 01:05</p> <p>6 BY MR. GOODSTADT: 01:05</p> <p>7 Q You testified from, in response to 01:05</p> <p>8 questions from your own lawyer, that Ed Carter 01:05</p> <p>9 drank the rest of a pitcher of rum and Coke; is 01:06</p> <p>10 that correct? 01:06</p> <p>11 A Yes. 01:06</p> <p>12 Q How many drinks was that? 01:06</p> <p>13 A I don't know. Whatever was in the 01:06</p> <p>14 pitcher. I didn't watch. I didn't count how many 01:06</p> <p>15 glasses he poured, but it was probably more than 01:06</p> <p>16 three or four. 01:06</p> <p>17 Q Was he drunk? 01:06</p> <p>18 A I have no idea. 01:06</p> <p>19 Q Did you report his drinking to 01:06</p> <p>20 anyone? 01:06</p> <p>21 A No, I did not. 01:06</p> <p>22 Q Why not? 01:06</p> <p>23 A Because Eddie was a buffoon, and 01:06</p> <p>24 everybody knew it, and that's it. 01:06</p> <p>25 Q So, let me get this straight. You 01:06</p>

41 (Pages 421 to 424)

<p style="text-align: right;">Page 425</p> <p>1 T. Bacon</p> <p>2 didn't report a fellow officer, who had at least 01:06</p> <p>3 three or four rum and Cokes while on duty, because 01:06</p> <p>4 he was a buffoon and everyone knew it; is that 01:06</p> <p>5 your testimony? 01:06</p> <p>6 A Yeah. Like I didn't report that 01:06</p> <p>7 Fiorillo was getting a blow job on duty, also. 01:06</p> <p>8 Q We will get to that after. 01:06</p> <p>9 A Okay. 01:06</p> <p>10 Q Who else was in the police station 01:06</p> <p>11 when Ed Carter allegedly drank three or four rum 01:06</p> <p>12 and Cokes? 01:06</p> <p>13 A I don't recall. There was probably 01:06</p> <p>14 three or four other officers. 01:06</p> <p>15 Q Can you name any of them? 01:06</p> <p>16 A Lonnie Ogenbaugh may have been one of 01:06</p> <p>17 them. 01:07</p> <p>18 Q Are you sure he was one of them or he 01:07</p> <p>19 may have been one of them? 01:07</p> <p>20 MR. NOVIKOFF: Let him answer the 01:07</p> <p>21 question. 01:07</p> <p>22 A I don't know for sure. 01:07</p> <p>23 MR. NOVIKOFF: Let him answer the 01:07</p> <p>24 question. 01:07</p> <p>25 A I don't know for sure, I can't tell 01:07</p>	<p style="text-align: right;">Page 427</p> <p>1 T. Bacon</p> <p>2 Q There is no difference in your mind 01:08</p> <p>3 in the dangerousness between when he's sober and 01:08</p> <p>4 when he is drunk? 01:08</p> <p>5 A No. I'm not even sure he was drunk. 01:08</p> <p>6 Q After he had three or four rum and 01:08</p> <p>7 Cokes? 01:08</p> <p>8 A No. 01:08</p> <p>9 Q So, you think he was just as 01:08</p> <p>10 dangerous when he was sober as after he had three 01:08</p> <p>11 or four rum and Cokes? 01:08</p> <p>12 A Yes. 01:08</p> <p>13 MR. NOVIKOFF: Note my objection. 01:08</p> <p>14 You can answer. 01:08</p> <p>15 MR. GOODSTADT: What is the basis? 01:08</p> <p>16 MR. NOVIKOFF: You asked it now three 01:08</p> <p>17 times. I think it's a bit harassing. 01:08</p> <p>18 MR. GOODSTADT: I just want it to be 01:08</p> <p>19 clear for the record that that is his actual 01:08</p> <p>20 testimony. I'm surprised by it. 01:08</p> <p>21 MR. NOVIKOFF: I think it's quite 01:08</p> <p>22 clear. Whether are you surprised or not is 01:08</p> <p>23 not all that important. 01:08</p> <p>24 BY MR. GOODSTADT: 01:08</p> <p>25 Q Why was it dangerous for Ed Carter to 01:08</p>
<p style="text-align: right;">Page 426</p> <p>1 T. Bacon</p> <p>2 you for sure. I'm thinking Lonnie may have been 01:07</p> <p>3 one of them. Perhaps John Oley. Maybe Gordon 01:07</p> <p>4 Bara, a couple others; but like I said, I can't be 01:07</p> <p>5 certain who they. 01:07</p> <p>6 Q And Carter was on duty that evening? 01:07</p> <p>7 A Yes, he was. 01:07</p> <p>8 Q Carrying a weapon? 01:07</p> <p>9 A Yes. 01:07</p> <p>10 Q Did you think it was dangerous for 01:07</p> <p>11 somebody to drink three or four rum and Cokes and 01:07</p> <p>12 carry a weapon? 01:07</p> <p>13 A I think it was dangerous for Carter 01:07</p> <p>14 to carry a weapon, period. 01:07</p> <p>15 MR. NOVIKOFF: It was asked and 01:07</p> <p>16 answered. 01:07</p> <p>17 BY MR. GOODSTADT: 01:07</p> <p>18 Q That wasn't the question. 01:07</p> <p>19 Did you think it was dangerous for 01:07</p> <p>20 someone, for Mr. Carter, to drink three or four 01:07</p> <p>21 rum and Cokes and to carry a weapon? 01:07</p> <p>22 A I think it was dangerous for 01:07</p> <p>23 Mr. Carter to carry a weapon when he was on duty, 01:07</p> <p>24 whether he was sober or had a couple of drinks in 01:08</p> <p>25 him. That is my answer. 01:08</p>	<p style="text-align: right;">Page 428</p> <p>1 T. Bacon</p> <p>2 carry a weapon? 01:08</p> <p>3 A Because he was a nut. He was a 01:08</p> <p>4 knucklehead. 01:08</p> <p>5 MR. NOVIKOFF: Let him finish. 01:08</p> <p>6 A If he was awake, he was walking 01:08</p> <p>7 around in a stupor. 01:08</p> <p>8 Q Did he ever discharge his weapon? 01:08</p> <p>9 A No, he didn't. 01:08</p> <p>10 Q Did he ever draw his weapon? 01:08</p> <p>11 A Not that I saw. 01:08</p> <p>12 Q What about walking around in a stupor 01:08</p> <p>13 led you to believe that it was dangerous for 01:08</p> <p>14 Mr. Carter to carry a weapon? 01:09</p> <p>15 A Because he was always tired. Very 01:09</p> <p>16 rarely did we see him on patrol. He was usually 01:09</p> <p>17 in bed on duty. 01:09</p> <p>18 Q I'm talking about the fact that you 01:09</p> <p>19 said it was dangerous for him to carry a weapon. 01:09</p> <p>20 I assume it wasn't dangerous when he was in bed, 01:09</p> <p>21 that he had a weapon; right? 01:09</p> <p>22 A No. 01:09</p> <p>23 Q You are talking about the times when 01:09</p> <p>24 he was not in bed. What did he do that was a 01:09</p> <p>25 danger? 01:09</p>

Page 429	Page 431
<p>1 T. Bacon</p> <p>2 A He was just an idiot. 01:09</p> <p>3 Q That's what he did? Because he was 01:09</p> <p>4 an idiot, he was a danger? 01:09</p> <p>5 A Yeah, in general terms he was an 01:09</p> <p>6 idiot. 01:09</p> <p>7 Q Did you report this dangerous 01:09</p> <p>8 situation to anyone? 01:09</p> <p>9 A No. 01:09</p> <p>10 Q Did you ever ask anybody to remove Ed 01:09</p> <p>11 Carter's weapon from him? 01:09</p> <p>12 A No. 01:09</p> <p>13 Q Did you ever ask him to be dismissed 01:09</p> <p>14 as a police officer because of the dangerous 01:09</p> <p>15 situation he was created? 01:09</p> <p>16 A No, but did I wear a bulletproof vest 01:09</p> <p>17 every night I worked. I was one of the few people 01:09</p> <p>18 who wore a vest every night I worked, because I 01:09</p> <p>19 didn't have confidence in the officers that I 01:09</p> <p>20 worked with: Ed Carter, Tom Snyder, Frank 01:09</p> <p>21 Fiorillo -- I would say, who else was there? 01:09</p> <p>22 Kevin Lamm and Joe Nofi. 01:10</p> <p>23 Q Any other officers that you felt you 01:10</p> <p>24 needed to wear a bulletproof vest because of? 01:10</p> <p>25 A No. 01:10</p>	<p>1 T. Bacon</p> <p>2 MR. NOVIKOFF: Asked and answered. I 01:10</p> <p>3 object. 01:10</p> <p>4 MR. GOODSTADT: I will move on. 01:10</p> <p>5 Q Other than for the night where you 01:10</p> <p>6 saw Mr. Carter allegedly drink three or four rum 01:10</p> <p>7 and Cokes, did you see him drink while on duty on 01:10</p> <p>8 any other occasion? 01:10</p> <p>9 A Not that I recall. 01:10</p> <p>10 Q Were on you duty that night? 01:11</p> <p>11 A Yes. 01:11</p> <p>12 Q Who else was on duty that night? 01:11</p> <p>13 A As I told you before, I don't recall. 01:11</p> <p>14 Q What year was it? 01:11</p> <p>15 A I do not recall. It was after I came 01:11</p> <p>16 back in '99. 01:11</p> <p>17 Q So, some point between May of 1999 01:11</p> <p>18 and April of 2006? 01:11</p> <p>19 A Yes. 01:11</p> <p>20 Q Somewhere in those seven years? 01:11</p> <p>21 A Somewhere in there. 01:11</p> <p>22 Q You don't know what year though? 01:11</p> <p>23 MR. NOVIKOFF: Objection. 01:11</p> <p>24 A No, I don't. I'm sorry. 01:11</p> <p>25 Q You testified that you witnessed or 01:11</p>
Page 430	Page 432
<p>1 T. Bacon</p> <p>2 Q Just the five of them? 01:10</p> <p>3 A Those five. 01:10</p> <p>4 Q Did you ever tell anyone that you 01:10</p> <p>5 wore a bulletproof vest because you didn't have 01:10</p> <p>6 confidence in the five of them? 01:10</p> <p>7 A That was common knowledge. 01:10</p> <p>8 Q Who did you tell? 01:10</p> <p>9 A Everybody. 01:10</p> <p>10 Q Name one person that you told. 01:10</p> <p>11 A It was just common knowledge. 01:10</p> <p>12 Q That wasn't the question, sir. 01:10</p> <p>13 A You know, I can't think of 01:10</p> <p>14 specifics -- 01:10</p> <p>15 Q Okay. 01:10</p> <p>16 A -- but I wore a vest, and everybody 01:10</p> <p>17 knew that I wore a vest, and they knew that I 01:10</p> <p>18 didn't have confidence in the officers that I 01:10</p> <p>19 worked with. 01:10</p> <p>20 Q But you don't know a single person 01:10</p> <p>21 that you told; okay? 01:10</p> <p>22 MR. NOVIKOFF: I am sorry. Is that a 01:10</p> <p>23 statement or a question? 01:10</p> <p>24 MR. GOODSTADT: It was both. It was 01:10</p> <p>25 a combination of the two. 01:10</p>	<p>1 T. Bacon</p> <p>2 allegedly witnessed Fiorillo engaging in a sexual 01:11</p> <p>3 act; correct? 01:11</p> <p>4 A Correct. 01:11</p> <p>5 Q And you didn't report that to anyone; 01:11</p> <p>6 correct? 01:11</p> <p>7 A I did not. 01:11</p> <p>8 Q Why not? 01:11</p> <p>9 A It wasn't my business. 01:11</p> <p>10 Q He was getting paid by the Village at 01:11</p> <p>11 that time? 01:11</p> <p>12 A Yes. 01:11</p> <p>13 Q Why didn't you report that he was 01:11</p> <p>14 stealing time? 01:11</p> <p>15 A I didn't view it that way. You know, 01:11</p> <p>16 whether he wants to get a blow job on duty, that 01:11</p> <p>17 is his business. It didn't affect me doing my 01:11</p> <p>18 patrol. 01:11</p> <p>19 Q Was he on a break? 01:11</p> <p>20 A I would say probably not. He was in 01:11</p> <p>21 uniform, in a police vehicle. So, I assume he 01:12</p> <p>22 wasn't. So, I would say no, he wasn't on break. 01:12</p> <p>23 Q So, he was being paid for being on 01:12</p> <p>24 duty? 01:12</p> <p>25 MR. NOVIKOFF: Objection. 01:12</p>

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<p>1 T. Bacon</p> <p>2 A I guess. 01:12</p> <p>3 Q And you didn't view that as stealing 01:12</p> <p>4 time? 01:12</p> <p>5 A No. 01:12</p> <p>6 Q Was that part of his duties? 01:12</p> <p>7 A Getting blow jobs on duty? No, I 01:12</p> <p>8 don't think so. 01:12</p> <p>9 Q So, why didn't you view that as 01:12</p> <p>10 stealing time? 01:12</p> <p>11 MR. NOVIKOFF: Objection. 01:12</p> <p>12 A I'm not a supervisor. 01:12</p> <p>13 Q That wasn't the question, sir. 01:12</p> <p>14 A Okay. 01:12</p> <p>15 Q The question was: Why didn't you -- 01:12</p> <p>16 MR. NOVIKOFF: You asked him why he 01:12</p> <p>17 didn't and he answered. 01:12</p> <p>18 MR. GOODSTADT: It's nonresponsive. 01:12</p> <p>19 MR. NOVIKOFF: So, say it's 01:12</p> <p>20 nonresponsive and ask him again. 01:12</p> <p>21 MR. GOODSTADT: I did. 01:12</p> <p>22 MR. NOVIKOFF: Okay. So, what is the 01:12</p> <p>23 question? 01:12</p> <p>24 BY MR. GOODSTADT: 01:12</p> <p>25 Q The question is: Why did you not 01:12</p>	<p>1 T. Bacon</p> <p>2 Q You should know the penal law; 01:13</p> <p>3 correct? 01:13</p> <p>4 A Yes. 01:13</p> <p>5 Q Do you know whether a public act, 01:13</p> <p>6 sexual act is unlawful? 01:13</p> <p>7 A He would have been hidden somewhere 01:13</p> <p>8 behind the school bus, but I was doing the PATROL 01:13</p> <p>9 and riding the bike through the playground. 01:13</p> <p>10 Q In your view, he wasn't violating any 01:13</p> <p>11 rules or ordinances? 01:13</p> <p>12 A No. People get -- having sex on 01:13</p> <p>13 their back deck, and I happen to be driving by and 01:13</p> <p>14 I have a view. 01:13</p> <p>15 Q On property that they own; correct? 01:13</p> <p>16 A It may have been that they owned, 01:13</p> <p>17 maybe they leased it; maybe they were hanging out 01:13</p> <p>18 with friends, I don't know. 01:13</p> <p>19 Q Fiorello didn't own or lease -- 01:13</p> <p>20 A No. 01:14</p> <p>21 Q -- the school; right? 01:14</p> <p>22 A Yes. 01:14</p> <p>23 Q It was public property? 01:14</p> <p>24 A Yes, that was public property. 01:14</p> <p>25 Q Did you ever address it with him? 01:14</p>
Page 434	Page 436
<p>1 T. Bacon</p> <p>2 view that as stealing time? 01:12</p> <p>3 A I'm not his supervisor. 01:12</p> <p>4 Q Did you ever see anyone else engage 01:12</p> <p>5 in a sexual act while on duty? 01:12</p> <p>6 A No, not police officers. I have seen 01:12</p> <p>7 plenty of people engaging in sexual acts, but no 01:12</p> <p>8 police officers, no. 01:12</p> <p>9 Q Was Mr. Fiorillo engaged in unlawful 01:12</p> <p>10 activity of having a sexual act in public? 01:13</p> <p>11 A It wouldn't have been in public 01:13</p> <p>12 except -- 01:13</p> <p>13 MR. NOVIKOFF: Objection to the 01:13</p> <p>14 foundation. We don't know the age of the 01:13</p> <p>15 individual. Clearly, it wouldn't be illegal 01:13</p> <p>16 -- well, perhaps it is. I don't know, you 01:13</p> <p>17 tell me. 01:13</p> <p>18 THE WITNESS: No, I didn't -- 01:13</p> <p>19 MR. NOVIKOFF: Objection, foundation. 01:13</p> <p>20 You go ahead. 01:13</p> <p>21 THE WITNESS: Okay. I don't know, 01:13</p> <p>22 was it? You are the attorney. 01:13</p> <p>23 BY MR. GOODSTADT: 01:13</p> <p>24 Q You are the police officer. 01:13</p> <p>25 A Okay. 01:13</p>	<p>1 T. Bacon</p> <p>2 A No. 01:14</p> <p>3 Q Did you ever raise it with him? 01:14</p> <p>4 A No. 01:14</p> <p>5 Q Did you ever raise it with anyone? 01:14</p> <p>6 A Nope. 01:14</p> <p>7 Q Did you ever mention it to anyone? 01:14</p> <p>8 A No. 01:14</p> <p>9 Q What year was that? 01:14</p> <p>10 A After he started working there up 01:14</p> <p>11 until April of '06. 01:14</p> <p>12 Q So, at some point in his career you 01:14</p> <p>13 viewed this? 01:14</p> <p>14 A Yes. 01:14</p> <p>15 Q You don't remember which year? 01:14</p> <p>16 A Oh, no. You asked if I ever spoke 01:14</p> <p>17 with anybody about it. Actually, there was 01:14</p> <p>18 another officer, Officer John Oley, who also 01:14</p> <p>19 witnessed Fiorillo getting a blow job in the Gem 01:14</p> <p>20 cart, because him and I talked to about that. 01:14</p> <p>21 Neither of us went to anybody over it. 01:14</p> <p>22 MR. NOVIKOFF: That is the second 01:14</p> <p>23 blow job? 01:14</p> <p>24 THE WITNESS: Yes. It wasn't the 01:14</p> <p>25 same one that I watched. 01:14</p>

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1 T. Bacon

2 MR. NOVIKOFF: I'm just want a 01:14

3 clarification, if he was talking about the 01:14

4 same blow job. 01:14

5 MR. GOODSTADT: You can redirect the 01:14

6 witness that you represent; that is fine. 01:14

7 **Q What year was your discussions with 01:14**

8 **Oley? 01:14**

9 A Probably sometime between '99 and 01:14

10 '06. 01:14

11 **Q Some point in that seven-year period? 01:15**

12 A Yes. 01:15

13 **Q Was anyone else on patrol with you 01:15**

14 **when you allegedly witnessed Fiorillo? 01:15**

15 A There was a lot of people on parole 01:15

16 but I was -- 01:15

17 **Q With you, I said. 01:15**

18 A -- by myself on a bicycle patrol. 01:15

19 **Q Did you partner up with someone when 01:15**

20 **you were on bike patrol? 01:15**

21 A No. 01:15

22 **Q You said it didn't affect your 01:15**

23 **duties, but, in fact, what should Mr. Fiorillo 01:15**

24 **have been doing at the time he was on duty getting 01:15**

25 **paid? 01:15**

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1 T. Bacon

2 A Patrolling. 01:15

3 **Q So, it actually left the Village with 01:15**

4 **one less officer patrolling; correct? 01:15**

5 A True. 01:15

6 **Q Did that leave the Village unsafe in 01:15**

7 **your mind? 01:15**

8 A I'm sorry. What was the question? 01:15

9 **Q Did that leave the Village unsafe in 01:15**

10 **your mind? 01:15**

11 MR. NOVIKOFF: Objection. 01:15

12 A Perhaps. 01:15

13 **Q Did you believe it left the Village 01:15**

14 **unsafe? 01:15**

15 A I didn't feel that at the time, no. 01:15

16 **Q Then you testified that Kevin Lamm 01:16**

17 **was -- you saw him engaging in physical abuse on 01:16**

18 **people in the public; correct? 01:16**

19 A Correct. 01:16

20 **Q Did you ever report it to anyone? 01:16**

21 A It was witnessed by the Chief, 01:16

22 himself. 01:16

23 **Q That wasn't the question. The 01:16**

24 **question was whether you ever reported it to 01:16**

25 **anyone. 01:16**

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1 T. Bacon

2 MR. NOVIKOFF: Objection. That was 01:16

3 his answer. You can answer the question 01:16

4 again. 01:16

5 A The Chief witnessed it himself. 01:16

6 There was no need for me to report it. 01:16

7 **Q So, the answer is no, you didn't 01:16**

8 **report to it anyone? 01:16**

9 MR. NOVIKOFF: Objection. The answer 01:16

10 is what the answer is. 01:16

11 A The answer is the Chief witnessed it 01:16

12 himself. The Chief addressed it after the 01:16

13 incident. I did not report it. I did not need to 01:16

14 report it. 01:16

15 **Q So, you answered no, you didn't 01:16**

16 **report it. 01:16**

17 A It was witnessed by the chief. You 01:16

18 are splitting hairs. 01:16

19 **Q I am not splitting hairs. 01:16**

20 A You are splitting hairs. It is what 01:16

21 it is. 01:16

22 The Chief witnessed it. There is no 01:16

23 reason for me to report it. If I turn around and 01:16

24 punch him in the nose in front of my attorney 01:16

25 here, do I need to report to it my attorney? No, 01:16

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1 T. Bacon

2 he witnessed it. 01:17

3 **Q The question was whether you reported 01:17**

4 **it or not. 01:17**

5 MR. NOVIKOFF: Objection. 01:17

6 A No. I did not report it. It was 01:17

7 witnessed by the Chief, himself. 01:17

8 **Q Which incident of physical abuse was 01:17**

9 **witnessed by the Chief that you didn't report? 01:17**

10 A When he grabbed the guy in the 01:17

11 headlock that I took down and started punching 01:17

12 him. In fact, the Chief was one of those who 01:17

13 helped pull him off the guy. 01:17

14 **Q Was Mr. Lamm arrested? 01:17**

15 A No, he was not. 01:17

16 **Q Was he indicted? 01:17**

17 A No, he was not. 01:17

18 **Q When you say "the Chief," who are you 01:17**

19 **referring to? 01:17**

20 A George Hesse. 01:17

21 **Q What year did this happen? 01:17**

22 A Sometime between '99 and '06. 01:17

23 **Q Was Hesse the Chief from '99 to 06? 01:17**

24 MR. NOVIKOFF: Answer the question. 01:17

25 A What's that? 01:17

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1 T. Bacon

2 **Q Was Hesse the Chief from '99 to '06? 01:17**

3 A Somewhere in that period he was. 01:17

4 MR. NOVIKOFF: Okay. 01:17

5 A I don't recall what point in time he 01:17

6 became the Deputy Chief. 01:18

7 **Q Was he the Chief at the time of the 01:18**

8 **Lamm incident? 01:18**

9 A I don't recall. He may have been a 01:18

10 sergeant then. 01:18

11 **Q You also testified that Lamm went on 01:18**

12 **a tirade with antisemitic and homophobic 01:18**

13 **statements; correct? 01:18**

14 MR. NOVIKOFF: Objection. I don't 01:18

15 know if he used the word tirade. 01:18

16 MR. GOODSTADT: No, he did. 01:18

17 THE WITNESS: I did use the word 01:18

18 tirade. 01:18

19 MR. NOVIKOFF: I stand corrected. 01:18

20 BY MR. GOODSTADT: 01:18

21 **Q What year was that? 01:18**

22 A Once again, it was in that time 01:18

23 frame, and that was more than once. 01:18

24 **Q Who else was present during this 01:18**

25 **tirade? 01:18**

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1 T. Bacon

2 A John Oley was one of them. Let's 01:18

3 see, who else? 01:18

4 Oley was there for one of them. I 01:18

5 can't recall for certain without having the roster 01:18

6 in front of me. 01:18

7 **Q Did you ever report him for making 01:18**

8 **these antisemitic or homophobic statements? 01:18**

9 A I did not. 01:18

10 **Q Did you ever use the phrase "Ocean 01:18**

11 **Berg"? 01:19**

12 A No. 01:19

13 **Q How come you didn't report him? 01:19**

14 MR. NOVIKOFF: Objection. You can 01:19

15 answer. 01:19

16 A How come I didn't report who? 01:19

17 **Q Kevin Lamm for using antisemitic and 01:19**

18 **homophobic statements? 01:19**

19 A That was Kevin's thing, not mine. 01:19

20 **Q I understand. Why didn't you report 01:19**

21 **him? 01:19**

22 A I didn't. No reason. It's none of 01:19

23 my business. He's doing his thing, causing havoc 01:19

24 as he always did on patrol. 01:19

25 **Q Did you ever report him for causing 01:19**

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1 T. Bacon

2 **havoc on patrol? 01:19**

3 A No. 01:19

4 **Q I believe you testified that Snyder 01:19**

5 **and Carter also used the term "Ocean Berg," 01:19**

6 **correct? When was that? 01:19**

7 A Both before '99, before I came, when 01:19

8 I was there the first time and even the second 01:19

9 time, you know, the second time. 01:19

10 **Q Who else was present when Snyder made 01:19**

11 **the comment? 01:19**

12 A Lonnie Ogenbaugh was one of them, 01:19

13 even guys from Islip Harbor Police, Bob Scroy. 01:19

14 I'm sure there were plenty of others. 01:20

15 **Q Did you report him for make in 01:20**

16 **antisemitic comments? 01:20**

17 A I did not. 01:20

18 **Q How many times did he make the 01:20**

19 **comment? 01:20**

20 A Dozens. 01:20

21 **Q Did he make any other antisemitic 01:20**

22 **comments other Ocean Berg? 01:20**

23 A Nothing that I can remember. 01:20

24 **Q How about Carter, how many times did 01:20**

25 **he make the comment Ocean Berg? 01:20**

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1 T. Bacon

2 A Dozens. 01:20

3 **Q Did you ever report him? 01:20**

4 A No. 01:20

5 **Q Who else was present when he made the 01:20**

6 **comment? 01:20**

7 A Lonny, actually the first time 01:20

8 around, back in, prior to '99 when they were there 01:20

9 and I was there the first time around, Mike Rosato 01:20

10 was one of the guys. 01:20

11 I can't recall specifically. 01:20

12 **Q And did you ever report Carter? 01:20**

13 A No. 01:20

14 **Q How come? 01:20**

15 A I didn't. 01:20

16 **Q You testified that Nofi was crass. 01:21**

17 **What led you to the conclusion that 01:21**

18 **he was crass? 01:21**

19 A Instead of walking up to somebody who 01:21

20 committed a violation in your presence and say, 01:21

21 "Excuse me. Can I speak to you for a second?" 01:21

22 He would whistle at them and say, 01:21

23 "Hey you, asshole. Come on over here. What the 01:21

24 fuck are you thinking? I should give you a fuckin 01:21

25 smack, ha." I deem that as crass. 01:21

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<p>1 T. Bacon</p> <p>2 Q Did anyone ever file a complaint 01:21</p> <p>3 against him? 01:21</p> <p>4 A That I do not know. 01:21</p> <p>5 Q Did you ever report him? 01:21</p> <p>6 A Yes. 01:21</p> <p>7 Q Who did you report him to? 01:21</p> <p>8 A George Hesse. 01:21</p> <p>9 Q How many times? 01:21</p> <p>10 A Once. 01:21</p> <p>11 Q When? 01:21</p> <p>12 A The first time that it happened, I 01:21</p> <p>13 can't -- when -- I don't know, sometime between 01:21</p> <p>14 '99 and '02. 01:21</p> <p>15 Q Between 1999 and 2002 -- 01:21</p> <p>16 A Yes. 01:21</p> <p>17 Q -- did you ever make a report in 01:21</p> <p>18 writing? 01:21</p> <p>19 A No. 01:21</p> <p>20 Q Who else was there when you told 01:21</p> <p>21 George Hesse? 01:21</p> <p>22 A Nobody. 01:21</p> <p>23 Q Just the two of you? 01:21</p> <p>24 A Um-hum. 01:21</p> <p>25 Q Where were you? 01:21</p>	<p>1 T. Bacon</p> <p>2 A His general incompetence and not 01:22</p> <p>3 knowing what's going on. 01:22</p> <p>4 Q Did ask you him why he jumped on top 01:22</p> <p>5 of you? 01:22</p> <p>6 A No. 01:22</p> <p>7 Q So, you don't know the reason that he 01:22</p> <p>8 did it; correct? 01:22</p> <p>9 A Other than he's an idiot, no. 01:22</p> <p>10 Q Did you ask him, "did you do it 01:22</p> <p>11 because are you an idiot"? 01:22</p> <p>12 A No, I think I called him a fuckin 01:23</p> <p>13 retard and I said, "What the fuck did you do that 01:23</p> <p>14 for?" 01:23</p> <p>15 He said, "Well, it's your arrest." 01:23</p> <p>16 I said, "No, it's not. It's your 01:23</p> <p>17 arrest. I'm going to the hospital." 01:23</p> <p>18 Q That was his response, you remember 01:23</p> <p>19 that specifically? 01:23</p> <p>20 A Yes. 01:23</p> <p>21 Q What year was that? 01:23</p> <p>22 MR. NOVIKOFF: Objection. 01:23</p> <p>23 A I don't recall. 01:23</p> <p>24 Q Did you fill out any paperwork with 01:23</p> <p>25 respect to it? 01:23</p>
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<p>1 T. Bacon</p> <p>2 A In the station. 01:22</p> <p>3 Q What did you tell him? 01:22</p> <p>4 A I told him that "this guy is an 01:22</p> <p>5 idiot. He has no business being a cop. He 01:22</p> <p>6 doesn't know how to talk to people. He's ignorant 01:22</p> <p>7 and I am not going to work with him." 01:22</p> <p>8 Q Did you ever work with Nofi? 01:22</p> <p>9 A A couple of times. 01:22</p> <p>10 Q After that time? 01:22</p> <p>11 A No. 01:22</p> <p>12 Q So, after 2002 you never worked with 01:22</p> <p>13 Nofi? 01:22</p> <p>14 A Right. 01:22</p> <p>15 Q You said that he injured you -- 01:22</p> <p>16 A Yes. 01:22</p> <p>17 Q -- is that correct? 01:22</p> <p>18 What injury did you have? 01:22</p> <p>19 A Bruised ribs. 01:22</p> <p>20 Q Did you get medical attention for it? 01:22</p> <p>21 A I did. 01:22</p> <p>22 Q That day? 01:22</p> <p>23 A Right after the incident. 01:22</p> <p>24 Q Do you know what led Nofi to jump on 01:22</p> <p>25 top of you? 01:22</p>	<p>1 T. Bacon</p> <p>2 A Absolutely. Line of duty injury 01:23</p> <p>3 report. It's in the memo book, hospital 01:23</p> <p>4 paperwork, sure. It's in the blotter. 01:23</p> <p>5 MR. GOODSTADT: I would like to mark 01:23</p> <p>6 the record to request the line of duty 01:23</p> <p>7 injury report, and the blotter, which I know 01:23</p> <p>8 there is a request for currently, and also 01:23</p> <p>9 the other document that has he just referred 01:23</p> <p>10 to. 01:23</p> <p>11 MR. NOVIKOFF: Take it under 01:23</p> <p>12 advisement. 01:23</p> <p>13 BY MR. GOODSTADT: 01:23</p> <p>14 Q Did you fill out a field report? 01:23</p> <p>15 A I didn't fill out a field report. He 01:23</p> <p>16 ended up having -- he got the whole ball because 01:23</p> <p>17 it became his arrest. 01:23</p> <p>18 He had to do the field report, the 01:23</p> <p>19 arrest, the summons and everything else because I 01:23</p> <p>20 went to the hospital. 01:23</p> <p>21 Q Do you know whether anyone was 01:23</p> <p>22 approaching you from behind at the time that Joe 01:23</p> <p>23 Novi jumped on top of you? 01:24</p> <p>24 A There he was nobody approaching me 01:24</p> <p>25 from behind. 01:24</p>

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<p>1 T. Bacon</p> <p>2 Q How do you know that? 01:24</p> <p>3 A Because there were other officers 01:24</p> <p>4 that witnessed it and couldn't believe what they 01:24</p> <p>5 saw. 01:24</p> <p>6 Q Did you ask them if anyone was 01:24</p> <p>7 approaching from behind? 01:24</p> <p>8 A No. 01:24</p> <p>9 Q You don't have eyes in the back of 01:24</p> <p>10 your head so you can't see behind you; is that 01:24</p> <p>11 correct? 01:24</p> <p>12 MR. NOVIKOFF: I don't know. Do you 01:24</p> <p>13 have eyes in the back of your head? 01:24</p> <p>14 THE WITNESS: I do not. 01:24</p> <p>15 MR. NOVIKOFF: I think that answers 01:24</p> <p>16 the question. 01:24</p> <p>17 THE WITNESS: Why didn't he grab the 01:24</p> <p>18 perp, instead of grabbing the both of us and 01:24</p> <p>19 tackling us both -- 01:24</p> <p>20 MR. NOVIKOFF: Don't argue. Don't 01:24</p> <p>21 worry about it. 01:24</p> <p>22 THE WITNESS: -- who was compliant. 01:24</p> <p>23 BY MR. GOODSTADT: 01:24</p> <p>24 Q Do you know whether Kevin Lamm was 01:24</p> <p>25 ever written up for dragging summons people in in 01:24</p>	<p>1 T. Bacon</p> <p>2 testimony. I asked him about the word 01:25</p> <p>3 demanded and I think he said he wouldn't 01:25</p> <p>4 characterize it as demanded. 01:25</p> <p>5 I'm objecting to that. You can 01:25</p> <p>6 answer if you can. 01:25</p> <p>7 A I didn't state that they should have 01:25</p> <p>8 demanded. They should have done a complete, 01:25</p> <p>9 thorough investigation, and asked her for a 01:25</p> <p>10 statement, and gotten witness statements from 01:26</p> <p>11 anybody who witnessed what had happened. 01:26</p> <p>12 Q Do you know whether they tried to get 01:26</p> <p>13 those statements? 01:26</p> <p>14 A I have no idea. 01:26</p> <p>15 Q Do you know whether they even knew it 01:26</p> <p>16 was Jeanne Jaeger who was involved at that time? 01:26</p> <p>17 A I have no idea. 01:26</p> <p>18 Q Do you know whether they asked Rich 01:26</p> <p>19 Bosetti to get the woman who was allegedly being 01:26</p> <p>20 choked? 01:26</p> <p>21 A I have no idea. 01:26</p> <p>22 Q You testified that Fiorillo beat 01:26</p> <p>23 people into submission. 01:26</p> <p>24 What did you mean by that? 01:26</p> <p>25 MR. NOVIKOFF: Objection to the 01:26</p>
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<p>1 T. Bacon</p> <p>2 handcuffs? 01:24</p> <p>3 A I have no idea. 01:24</p> <p>4 Q When was the memo that was issued 01:24</p> <p>5 about issuing summons in the field, when was that 01:24</p> <p>6 posted? 01:24</p> <p>7 A I don't recall. 01:25</p> <p>8 Q Who posted it? 01:25</p> <p>9 A Hesse. 01:25</p> <p>10 Q Do you recall what year this was? 01:25</p> <p>11 A Sometime between '99 and '06. 01:25</p> <p>12 MR. GOODSTADT: I would like to mark 01:25</p> <p>13 the record again to request a production of 01:25</p> <p>14 that memo. 01:25</p> <p>15 MR. NOVIKOFF: Take it under 01:25</p> <p>16 advisement. 01:25</p> <p>17 BY MR. GOODSTADT: 01:25</p> <p>18 Q You testified before about your 01:25</p> <p>19 belief that the officers on duty the night of the 01:25</p> <p>20 Halloween incident should have demanded that 01:25</p> <p>21 Jeanne Jaeger give them a statement that evening. 01:25</p> <p>22 Do you recall testifying to that -- 01:25</p> <p>23 MR. NOVIKOFF: Objection. 01:25</p> <p>24 Q -- in sum and substance? 01:25</p> <p>25 MR. NOVIKOFF: That was not his 01:25</p>	<p>1 T. Bacon</p> <p>2 characterization of his testimony. That was 01:26</p> <p>3 part of an entire answer, so it's taken out 01:26</p> <p>4 of context, but you can answer over my 01:26</p> <p>5 objection. 01:26</p> <p>6 A Yeah, verbally abusive and verbally 01:26</p> <p>7 beat them into submission. He wasn't physical. 01:26</p> <p>8 He didn't physically abuse anybody. He was just 01:26</p> <p>9 verbally abusive. 01:26</p> <p>10 Q Did you ever report that to anyone? 01:26</p> <p>11 A No, I did not. 01:26</p> <p>12 Q You testified that Fiorillo issued 01:26</p> <p>13 too many summonses; correct? 01:26</p> <p>14 A Yes. 01:26</p> <p>15 Q Isn't it true that the Chief, when I 01:26</p> <p>16 say Chief, I mean, Paradiso, told the department 01:26</p> <p>17 that they needed to issue more summonses? 01:27</p> <p>18 A We always used to hear you need to 01:27</p> <p>19 issues summonses; that was a routine mantra. 01:27</p> <p>20 Q Were you ever told that you needed to 01:27</p> <p>21 issue more summonses? 01:27</p> <p>22 A Yes. 01:27</p> <p>23 Q You testified that Fiorillo was 01:27</p> <p>24 bullying with the public. Do you recall 01:27</p> <p>25 testifying to that? 01:27</p>

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1 **T. Bacon**

2 A Yes. 01:27

3 **Q What did you mean by that? 01:27**

4 A Once again, he was verbally abusive 01:27

5 to the public. 01:27

6 **Q Again, you never reported that; 01:27**

7 **correct? 01:27**

8 A No, I did not. 01:27

9 **Q Do you know whether anyone ever filed 01:27**

10 **a complaint about his verbal abuse? 01:27**

11 A Yes, I do know. 01:27

12 **Q Who filed a complaint about his 01:27**

13 **verbal use? 01:27**

14 A I have no idea who the civilian was, 01:27

15 but I know, because Chief Paradiso asked me about 01:27

16 it. 01:27

17 **Q When was this? 01:27**

18 A Sometime between 1999 and 2006. 01:27

19 **Q You don't recall what year? 01:27**

20 A No. 01:27

21 **Q I think you testified about a call 01:27**

22 **that you received from an FBI investigator about 01:28**

23 **Fiorillo? 01:28**

24 A Yes. 01:28

25 **Q Do you recall that? 01:28**

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1 **T. Bacon**

2 **What did you to say the FBI 01:28**

3 **investigator about Fiorello? 01:28**

4 A I gave him a favorable reference. It 01:28

5 was within the first six months that Fiorillo was 01:28

6 working with us. 01:28

7 **Q Do you recall what you said to the 01:28**

8 **investigator about Fiorillo? 01:28**

9 A That he was trustworthy, dedicated, 01:28

10 professional. It was before we knew who Fiorillo 01:28

11 really was and it wasn't an accurate reference 01:28

12 that I had given. 01:28

13 **Q Did you ever correct that reference? 01:28**

14 A No, I did not. 01:28

15 **Q You testified that you are a 01:28**

16 **volunteer fire department -- or volunteer 01:28**

17 **firefighter in the Islip Fire Department; is that 01:28**

18 **correct? 01:28**

19 A Yes. 01:28

20 **Q Any other Ocean Beach police officers 01:28**

21 **work there? 01:28**

22 A No. 01:28

23 **Q Any other Ocean Beach police officers 01:29**

24 **work there during your tenure there? 01:29**

25 A No. 01:29

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1 **T. Bacon**

2 **Q You testified that you voluntarily 01:29**

3 **went on your last tour, even though you were 01:29**

4 **retired and didn't have to go, but you wanted to 01:29**

5 **go with your guys; is that correct? 01:29**

6 A I was eligible for retirement. I had 01:29

7 not retired yet. 01:29

8 **Q But you voluntarily went because you 01:29**

9 **wanted to go with your guys; is that correct? 01:29**

10 A Correct. 01:29

11 **Q Well, what did you mean by that? 01:29**

12 A They needed an assistant chief to go, 01:29

13 someone in my rank. If I didn't go, somebody else 01:29

14 was going to get stuck going. I could have turned 01:29

15 around and retired, but I chose not to until after 01:29

16 I came back so there wouldn't be either, A, 01:29

17 shortfall, or somebody else wouldn't get stuck 01:29

18 going. 01:29

19 **Q You went as a sense of loyalty to 01:29**

20 **those guys? 01:29**

21 A I went as a sense of duty to my 01:29

22 country. 01:29

23 **Q Again, I certainly appreciate your 01:30**

24 **service to the country. Nobody is questioning 01:30**

25 **that. 01:30**

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1 **T. Bacon**

2 **And then you testified about a 01:30**

3 **conversation that you had with Snyder about his 01:30**

4 **time in the military? 01:30**

5 A Correct. 01:30

6 **Q When was that conversation? 01:30**

7 A In the early '90s. 01:30

8 **Q Do you know when Mr. Snyder left the 01:30**

9 **military? 01:30**

10 A I do not. 01:30

11 **Q Do you know how old he was? 01:30**

12 A No idea. 01:30

13 **Q Do you know why he left the military? 01:30**

14 A Because he's a coward. 01:30

15 **Q And what is your basis for that? 01:30**

16 A Because he left and went AWOL. 01:30

17 **Q Do you know why, what the 01:30**

18 **circumstances were? 01:30**

19 A No. I believe he said because of a 01:30

20 girl. 01:30

21 **Q When did he tell you that? 01:30**

22 A Back in that time frame, back in the 01:30

23 early '90s. 01:30

24 **Q What did he specifically tell you 01:30**

25 **about a girl? 01:30**

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<p>1 T. Bacon</p> <p>2 A He said, "I got myself in trouble 01:30</p> <p>3 chasing after a girl." 01:30</p> <p>4 Q Who else was there during that 01:30</p> <p>5 conversation? 01:30</p> <p>6 A Just me and him. 01:30</p> <p>7 Q Do you know what kind of discharge he 01:30</p> <p>8 received? 01:30</p> <p>9 A No idea. 01:30</p> <p>10 Q You testified that guys chose not to 01:31</p> <p>11 work with Snyder; is that correct? 01:31</p> <p>12 A Um-hum. 01:31</p> <p>13 Q Who chose not to work with Snyder? 01:31</p> <p>14 A A bunch of guys. 01:31</p> <p>15 Q Who? 01:31</p> <p>16 A I don't know anybody specific. I 01:31</p> <p>17 know I was one of them. I didn't work with 01:31</p> <p>18 Snyder, Carter, Lamm, Fiorillo and Novi. If I was 01:31</p> <p>19 on the same shift, I was on bicycle patrol, and I 01:31</p> <p>20 would stay far from them. 01:31</p> <p>21 Q Who did you tell that you didn't want 01:31</p> <p>22 to work with Snyder? 01:31</p> <p>23 A Me? George. 01:31</p> <p>24 Q How many times did you tell him that? 01:31</p> <p>25 A Once. It wasn't just Snyder. I told 01:31</p>	<p>1 T. Bacon</p> <p>2 became aware of that particular complaint because 01:32</p> <p>3 you were informed by Chief Paradiso; is that 01:32</p> <p>4 correct? 01:32</p> <p>5 A Actually, I was there when the 01:32</p> <p>6 incident had occurred, and then Chief Paradiso, 01:32</p> <p>7 after seeing the individual making the complaint, 01:32</p> <p>8 that is how I knew the complaint was made, but I 01:32</p> <p>9 witnessed the actual issue at hand, personally. 01:32</p> <p>10 Q What was the actual issue at hand 01:32</p> <p>11 that you witnessed? 01:32</p> <p>12 A We were driving off, driving through 01:32</p> <p>13 Salt Air in the morning at the end of the tour, 01:32</p> <p>14 that there was a woman walking on the walkway, and 01:33</p> <p>15 she didn't yield to us, which she didn't have to 01:33</p> <p>16 because she is a pedestrian on the walkway. 01:33</p> <p>17 And he got out of the car, started 01:33</p> <p>18 screaming and hollering, getting in her face, 01:33</p> <p>19 pointing at her and everything. 01:33</p> <p>20 He got back into the car and I told 01:33</p> <p>21 him he was way out of line, don't ever do that 01:33</p> <p>22 again and embarrass me while I am with you. That 01:33</p> <p>23 was it. We went home. 01:33</p> <p>24 The next shift I got a phone call 01:33</p> <p>25 from -- actually, later that day got a phone call 01:33</p>
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<p>1 T. Bacon</p> <p>2 him I didn't want to work with any one of those 01:31</p> <p>3 five knuckleheads. 01:31</p> <p>4 Q Do you know if anyone else told him 01:31</p> <p>5 that? 01:31</p> <p>6 A No. 01:31</p> <p>7 Q If anyone ever pulled themselves off 01:31</p> <p>8 of a tour because they didn't want to work with 01:31</p> <p>9 them? 01:31</p> <p>10 A No idea. 01:31</p> <p>11 Q Did you ever drop off a tour because 01:31</p> <p>12 you didn't want to work with one of those guys? 01:31</p> <p>13 A No. 01:32</p> <p>14 MR. GOODSTADT: I have nothing 01:32</p> <p>15 further. 01:32</p> <p>16 MR. NOVIKOFF: I'm good. 01:32</p> <p>17 MR. CONNOLLY: I just have one 01:32</p> <p>18 question. 01:32</p> <p>19 EXAMINATION 01:32</p> <p>20 BY MR. CONNOLLY: 01:32</p> <p>21 Q You indicated that you became aware 01:32</p> <p>22 there was a civilian complaint against Frank 01:32</p> <p>23 Fiorillo; is that correct? 01:32</p> <p>24 A Yes. 01:32</p> <p>25 Q And I believe you testified you 01:32</p>	<p>1 T. Bacon</p> <p>2 from Ed Paradiso asking what had happened. 01:33</p> <p>3 Q And did you tell him what happened? 01:33</p> <p>4 A Yes. 01:33</p> <p>5 Q And was it the sum and substance of 01:33</p> <p>6 what you just said to us? 01:33</p> <p>7 A Yes. 01:33</p> <p>8 Q Do you know if Mr. Fiorello was 01:33</p> <p>9 counseled by Chief Paradiso? 01:33</p> <p>10 A That I have no idea. 01:33</p> <p>11 MR. CONNOLLY: I have no further 01:33</p> <p>12 questions. 01:33</p> <p>13 MR. GOODSTADT: I have one further 01:33</p> <p>14 question. 01:33</p> <p>15 FURTHER EXAMINATION 01:33</p> <p>16 BY MR. GOODSTADT: 01:33</p> <p>17 Q Isn't it true that you told Tom 01:33</p> <p>18 Snyder that you wore a vest because you were 01:33</p> <p>19 worried about the potential for violence in bar 01:33</p> <p>20 fights, including people carrying weapons or 01:34</p> <p>21 getting hit by glass? 01:34</p> <p>22 MR. NOVIKOFF: Objection, leading. 01:34</p> <p>23 A No. 01:34</p> <p>24 MR. GOODSTADT: That's it. 01:34</p> <p>25 MR. CONNOLLY: Thank you. 01:34</p>

<p style="text-align: right;">Page 461</p> <p>1 T. Bacon</p> <p>2 THE VIDEOGRAPHER: The time is 01:34</p> <p>3 1:34 p.m. 01:34</p> <p>4 We are going off the record. 01:34</p> <p>5 oOo</p> <p>6 I, TYREE BACON, the witness herein, do</p> <p>7 hereby certify that the foregoing testimony of the</p> <p>8 pages of this deposition to be a true and correct</p> <p>9 transcript, subject to the corrections, if any,</p> <p>10 shown on the attached page.</p> <p>11 _____</p> <p>12 TYREE BACON</p> <p>13 Subscribed and sworn to before me this</p> <p>14 _____ day of _____.</p> <p>15 _____</p> <p>16 NOTARY PUBLIC</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 463</p> <p>1</p> <p>2 CERTIFICATE</p> <p>3 STATE OF NEW YORK)</p> <p>4 : SS.</p> <p>5 COUNTY OF NEW YORK)</p> <p>6</p> <p>7 I, BONNIE PRUSZYNSKI, a Notary</p> <p>8 Public with and for the State of New York,</p> <p>9 do hereby certify:</p> <p>10 That TYREE BACON, the witness</p> <p>11 whose deposition is hereinbefore set forth,</p> <p>12 was duly sworn by me and that such deposition</p> <p>13 is a true record of the testimony given by</p> <p>14 the witness.</p> <p>15 I further certify that I am not related</p> <p>16 to any of the parties to this action by</p> <p>17 blood or marriage, and that I am in no way</p> <p>18 interested in the outcome of this matter.</p> <p>19 IN WITNESS WHEREOF, I have hereunto</p> <p>20 set my hand this 27th of April, 2009.</p> <p>21</p> <p>22 _____</p> <p>23 Bonnie Pruszyński</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 462</p> <p>1</p> <p>2 STATE OF NEW YORK) Pg. of Pgs.</p> <p>3 COUNTY OF NEW YORK)</p> <p>4 I wish to make the following changes</p> <p>5 for the following reasons:</p> <p>6 PAGE LINE</p> <p>7 _____ CHANGE: _____</p> <p>8 REASON: _____</p> <p>9 _____ CHANGE: _____</p> <p>10 REASON: _____</p> <p>11 _____ CHANGE: _____</p> <p>12 REASON: _____</p> <p>13 _____ CHANGE: _____</p> <p>14 REASON: _____</p> <p>15 _____ CHANGE: _____</p> <p>16 REASON: _____</p> <p>17 _____ CHANGE: _____</p> <p>18 REASON: _____</p> <p>19 _____ CHANGE: _____</p> <p>20 REASON: _____</p> <p>21 _____ CHANGE: _____</p> <p>22 REASON: _____</p> <p>23 _____ CHANGE: _____</p> <p>24 REASON: _____</p> <p>25 _____</p> <p style="text-align: center;">TYREE BACON</p>	<p style="text-align: right;">Page 464</p> <p>1</p> <p>2 I N D E X</p> <p>3 WITNESS PAGE</p> <p>4 TYREE BACON</p> <p>5 BY MR. GOODSTADT 266, 424, 460</p> <p>6 BY MR. NOVIKOFF 374</p> <p>7 BY MR. CONNOLLY 458</p> <p>8</p> <p>9 INFORMATION REQUESTED:</p> <p>10 Page 377, Line 15</p> <p>11 Page 448, Line 5</p> <p>12 Page 450, Line 12</p> <p>13</p> <p>14 E X H I B I T S</p> <p>15 Bacon Exhibit 10 2662 308</p> <p>16 Bacon Exhibit 11 Hesse 12-206 342</p> <p>17 Bacon Exhibit 12 P 926 - 927 356</p> <p>18 Bacon Exhibit 13 P 916, P 336 361</p> <p>19 Bacon Exhibit 14 007354 369</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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